



# CITY COUNCIL

1520 AVENUE K

DATE: 2/8/2010  
 CALL TO ORDER: 7:00 p.m.  
 INVOCATION: Father Jason Cargo  
 St. Elizabeth Ann Seton Catholic Church  
 PLEDGE OF ALLEGIANCE: Boy Scout Troop 219  
 Christ Church Plano

ITEM NO.	EXPLANATION	ACTION TAKEN
(a)	<p>THE MISSION OF THE CITY OF PLANO IS TO PROVIDE OUTSTANDING SERVICES AND FACILITIES, THROUGH COOPERATIVE EFFORTS WITH OUR CITIZENS THAT CONTRIBUTE TO THE QUALITY OF LIFE IN OUR COMMUNITY.</p> <p><b>The City Council may convene into Executive Session to discuss posted items in the regular meeting as allowed by law.</b></p> <p><b><u>PROCLAMATIONS &amp; SPECIAL RECOGNITION</u></b>            Proclamation: Census Awareness Week - 2010</p> <p>Presentation - Leadership in Energy and Environmental Design - Existing Building Certification</p> <p><b><u>COMMENTS OF PUBLIC INTEREST</u></b>  <u>This portion of the meeting is to allow up to five (5) minutes per speaker with thirty (30) total minutes on items of interest or concern and not on items that are on the current agenda. The Council may not discuss these items, but may respond with factual or policy information. The Council may choose to place the item on a future agenda.</u></p> <p><b><u>CONSENT AGENDA</u></b>  <u>The Consent Agenda will be acted upon in one motion and contains items which are routine and typically noncontroversial. Items may be removed from this agenda for individual discussion by a Council Member, the City Manager or any citizen. Citizens are limited to two (2) items and discussion time of three (3) minutes each.</u></p> <p><b><u>Approval of Minutes</u></b>            January 25, 2010</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><b><u>Approval of Expenditures</u></b></p> <p><b>Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)</b></p>	
(b)	<p>Bid No. 2010-34-B for the purchase of Electronic Handheld Ticket Writers, in the amount of \$79,519 to Brazos Technology, and authorizing the City Manager to execute all necessary documents.</p>	
	<p><b>Purchase from an Existing Contract</b></p>	
(c)	<p>To approve the purchase of eighteen (18) 2010 Chevrolet Black and White Police Patrol Tahoes in the amount of \$477,810 from Caldwell Country Chevrolet through an existing contract/Interlocal agreement with Tarrant County, and authorizing the City Manager to execute all necessary documents. (Tarrant County Contract #2005-180).</p>	
	<p><b>Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws)</b></p>	
(d)	<p>To approve an Engineering contract by and between the City of Plano and Kimley-Horn and Associates, Inc., in the amount of \$119,500 for University Estates Waterline Rehabilitation, and authorizing the City Manager to execute all necessary documentation.</p>	
	<p><b>Approval of Change Order</b></p>	
(e)	<p>To Hencie International, Inc., increasing the contract by \$44,938 for the 2008 - 2009 Arterial Concrete Pavement Rehabilitation Project, Los Rios Boulevard and Jupiter Road, Project No. 5979, Change Order No. 1, Bid No. 2009-117-B.</p>	
	<p><b><u>Adoption of Resolutions</u></b></p>	
(f)	<p>To approve the terms and conditions of a Real Estate Contract by and between the Trammel Crow Company No. 43, LTD., and the City of Plano for the purchase of approximately 7.005 acres of land located west of Midway Road and south of McKamy Trail immediately adjacent to the existing Sunset Park in Plano, Collin County, Texas; authorizing the City Manager to execute such contract; and providing an effective date.</p>	
(g)	<p>To provide for the creation of the Plano Photographic Traffic Signal Advisory Committee; providing for appointment and terms of office for members and officers; providing rules and guidelines under which the Committee will function; and providing an effective date.</p>	
(h)	<p>To repeal Resolution No. 2002-9-25(R), Resolution No. 2008-2-7(R) and Resolution No. 2008-7-16(R) with regard to the Multi-Cultural Outreach Roundtable ("Roundtable") and adopting a new resolution to re-establish the Roundtable setting forth its purpose, appointment of a Chair and Vice-Chairs, establishing duties and meeting guidelines, and providing for open participation to the Roundtable; and providing an effective date.</p>	
(i)	<p>To approve an expenditure for repairs to grounding and surge protection at Ridgeview Pump Station; authorizing the execution of any and all documents by the City Manager; and providing an effective date.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(j)	To approve the terms and conditions of an Amendment to an Agreement by and between Connecticut General Life Insurance Company and the City of Plano; authorizing its execution by the City Manager; and providing an effective date.	
(k)	To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano, Texas and the North Central Texas Council of Governments providing terms and conditions for the funding of a Second Chance Swap and Reuse Event; authorizing its execution by the City Manager and providing an effective date.	
(l)	To authorize the City to enter into an Agreement with the Texas Product Stewardship Council to become a member, and to promote and support the shift of disposal cost from the local government to the producer through state legislation; authorizing its execution by the City Manager; and providing an effective date.	
(m)	<p><b><u>Adoption of Ordinances</u></b></p> <p>To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended; thereby rescinding a portion of Heritage Resource Designation No. H-05 on a 0.1± acre of land located on the west side of K Avenue, 355± feet south of 18th Street, situated in the City of Plano, Collin County, Texas; presently zoned Downtown Business/Government with Heritage Resource Designation H-05; directing a change accordingly in the official Zoning Map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Zoning Case: 2009-24 Applicant: Bill Squiric (Approved 1/25/10)</p>	
	<p><b><u>ITEMS FOR INDIVIDUAL CONSIDERATION:</u></b></p> <p><b><u>Public Hearing Items: Applicants are limited to fifteen (15) minutes presentation time with a five (5) minute rebuttal, if needed. Remaining speakers are limited to thirty (30) total minutes of testimony time, with three (3) minutes assigned per speaker. The presiding officer may extend these times as deemed necessary.</u></b></p> <p><b><u>Non-Public Hearing Items: The Presiding Officer may permit limited public comment for items on the agenda not posted for a Public Hearing. The Presiding Officer will establish time limits based upon the number of speaker requests, length of the agenda, and to ensure meeting efficiency, and may include a cumulative time limit. Speakers will be called in the order cards are received until the cumulative time is exhausted.</u></b></p>	
(1)	A Resolution to adopt a Water Management Plan for the City of Plano, Texas, to promote responsible use of water and to provide for best management practices resulting in on-going, long-term water savings, authorizing its execution by the City Manager; and providing an effective date.	

ITEM NO.	EXPLANATION	ACTION TAKEN
(2)	<p>A Resolution to canvass the election returns of the Special Election of January 30, 2010, for the election of one member of Council Place 3 (District 3) to fill a vacancy until the May 2011 General Election declaring the results; and resolving other matters on the subject.</p>	
(3)	<p>An Ordinance to order a Runoff Election to be held on March 20, 2010, for the purpose of electing one Member of Council to Place No. 3 (District 3), to hold office until May 2011 to fill a vacancy; designating locations of polling places; and ordering notices of election to be given as prescribed by law in connection with such election and ordaining other matters on the subject.</p> <p><u>Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Municipal Avenue, with specially marked parking spaces nearby. Access and special parking are also available on the north side of the building. Training Room A/Building Inspections Training Room are located on the first floor. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.</u></p>	



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/08/2010		
Department:		City Manager's Office		
Department Head		Tom Muehlenbeck		
Agenda Coordinator (include phone #): <b>Sharon Wright ext. 7107</b>				
<b>CAPTION</b>				
Proclamation: Census Awareness Week - 2010				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
<b>FUND(S):</b>				
<b>COMMENTS:</b>				
<b>SUMMARY OF ITEM</b>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/08/10		
Department:		City Manager's Office		
Department Head		Tom Muehlenbeck		
Agenda Coordinator (include phone #): <b>Cindy Pierce X5161, Melinda White X7548</b>				
<b>CAPTION</b>				
Presentation - Leadership in Energy and Environmental Design - Existing Building Certification				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
<b>FUND(S):</b>				
<b>COMMENTS:</b>				
<b>SUMMARY OF ITEM</b>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	

**PLANO CITY COUNCIL  
PRELIMINARY OPEN MEETING  
January 25, 2010**

**COUNCIL MEMBERS**

Phil Dyer, Mayor  
Harry LaRosiliere, Mayor Pro Tem  
Lee Dunlap, Deputy Mayor Pro Tem  
Pat Miner  
Ben Harris  
Mabrie Jackson (resigned)  
Lissa Smith  
Jean Callison

**STAFF**

Thomas H. Muehlenbeck, City Manager  
Frank Turner, Deputy City Manager  
Bruce Glasscock, Deputy City Manager  
Rod Hogan, Deputy City Manager  
Mark Israelson, Assistant City Manager  
LaShon Ross, Assistant City Manager  
Diane C. Wetherbee, City Attorney  
Diane Zucco, City Secretary

Mayor Dyer called the meeting to order at 5:10 p.m., Monday, January 25, 2010, in Training Room A of the Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Member Harris. Mayor Dyer then stated that the Council would retire into Executive Session in compliance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated, in order to consult with an attorney and receive Legal Advice/Litigation, Section 551.071, and to receive information regarding Real Estate, Section 551.072, and Economic Development, Section 551.087 for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required.

Mayor Dyer reconvened the meeting back into the Preliminary Open Meeting at 6:17 p.m. with Council Member Harris in attendance.

**Consideration and action resulting from Executive Session discussion:**

No items were brought forward.

**DART Report**

DART Board Member Faye Wilkins spoke to extension of the Green Line, changes in bus routes, providing information to seniors regarding para-transit and DART On Call and work towards a Mobility Management Program.

Ms. Wilkins spoke to items yet to be completed including construction at the *Park and Ride*, changes in services in the Legacy Town Center area, and acceleration of development of the Cotton Belt Line. City Manager Muehlenbeck stated concerns regarding services that might be provided to non-member cities and that they may enter the system for less than one penny in tax revenues. Ms. Wilkins advised regarding the formation of a committee to address the potential for additional member cities. She responded to Deputy Mayor Pro Tem Dunlap regarding routing of bus service in the Legacy Town area and to Council Member Smith on plans to provide information to seniors. Mr. Muehlenbeck requested sign-up services for para-transit be made available at information sessions and Mr. Dunlap spoke to providing information on the City's web site. Council Member Miner spoke to holding sessions at communities where seniors live.

### **Comprehensive Monthly Financial Report**

Director of Finance Tacke spoke regarding the report for the month of December 2009, advising that revenues in the General, Water/Sewer and Golf Course funds are down as a percentage of budget compared to last year. She spoke to lower ad valorem and sales taxes, and franchise fees. Ms. Tacke advised that expenditures for the General Fund are down slightly as a percentage of budget due to a decrease in personal services offset by the funding of post-employment benefits. She spoke to unemployment rates in the City still trending below the state and national levels, slightly improved sales tax revenue, and lower revenues in the Water/Sewer fund due to increased rainfall with increased revenues based on encumbrances for the environmental education complex and contractual payments to the water district. Ms. Tacke spoke to increased expenditures in the Municipal Drainage Fund and reviewed investments.

### **Discussion and Direction - Board and Commission Review**

City Secretary Zucco advised regarding the last review and stated that the process entails meetings of board chairs, liaisons and Board and Commission Review Committee with recommendations brought forward to the Council. The Council concurred to direct the committee to move forward.

### **Council items for discussion/action on future agendas**

No items were discussed.

### **Consent and Regular Agenda**

Deputy Mayor Dunlap requested that Consent Agenda Items "C," Bid No. 2010-27-B for Meadows Addition project to Jim Bowman Construction Co., L.P., in the amount of \$1,106,456; "D," Approval of Change Order - To Jim Bowman Construction Company, LP, increasing the contract by \$59,190 for Ridgeview Drive from Independence Parkway to Coit Road; and "E," Approval of Change Order - To Jim Bowman Construction Company, L.P., increasing the contract by \$86,349 for the 2008 - 2009 Arterial Concrete Pavement Rehabilitation Project, Ohio Drive and Kings Manor Drive be removed for individual consideration due to possible conflicts of interest.

Nothing further was discussed. Mayor Dyer adjourned the Preliminary Meeting at 6:37 p.m.

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**Phil Dyer, Mayor**

ATTEST

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**Diane Zucco, City Secretary**

**PLANO CITY COUNCIL**  
**January 25, 2010**

**COUNCIL MEMBERS**

Phil Dyer, Mayor  
Harry LaRosiliere, Mayor Pro Tem  
Lee Dunlap, Deputy Mayor Pro Tem  
Pat Miner  
Ben Harris  
Mabrie Jackson (resigned)  
Lissa Smith  
Jean Callison

**STAFF**

Thomas H. Muehlenbeck, City Manager  
Frank Turner, Deputy City Manager  
Bruce Glasscock, Deputy City Manager  
Rod Hogan, Deputy City Manager  
Mark Israelson, Assistant City Manager  
LaShon Ross, Assistant City Manager  
Diane C. Wetherbee, City Attorney  
Diane Zucco, City Secretary

Mayor Dyer convened the Council into the Regular Session on Monday, January 25, 2010, at 7:01 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Pastor Jack Schneider of St. Paul Lutheran Church and the Pledge of Allegiance was led by Brownie Troop 1522 of Shepard Elementary.

Mayor Dyer presented a proclamation for Heart Awareness Month - 2010 and a Certificate of Appreciation to Dr. Christopher Parr for his service on the Multicultural Outreach Roundtable.

**COMMENTS OF PUBLIC INTEREST**

No one appeared to speak.

**CONSENT AGENDA**

Deputy Mayor Pro Tem Dunlap requested that Consent Agenda Items "C," "D," and "E" be removed for individual consideration due to possible conflicts of interest.

Upon a motion made by Mayor Pro Tem LaRosiliere and seconded by Council Member Miner, the Council voted 7-0 to approve and adopt all remaining items on the Consent Agenda as recommended and as follows:

**Approval of Minutes** (Consent Agenda Item “A”)  
January 11, 2010

**Approval of Expenditures**

**Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)**

**CSP No. 2009-145-C** for LIBRARY RFID SYSTEM to Integrated Technology Group (ITG) in the amount of \$694,813 and authorizing the City Manager to execute all necessary documents. This will establish an annual fixed price contract with three optional one-year renewals for the maintenance thereof. (Consent Agenda Item “B”)

**Adoption of Resolutions**

**Resolution No. 2010-1-6(R)** to repeal Resolution No. 2008-9-26(R) and approving new recreation membership fees that include a three (3) month membership option; and providing an effective date. (Consent Agenda Item “F”)

**Resolution No. 2010-1-7(R)** to approve the terms and conditions of a Professional Services Agreement by and between Alternative Service Concepts, LLC, and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “G”)

**Resolution No. 2010-1-8(R)** to approve the terms and conditions of a Second Amended Real and Business Personal Property Tax Abatement Agreement by and between the City of Plano, Texas and Diodes Incorporated, a Delaware corporation; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “H”)

**Resolution No. 2010-1-9(R)** to approve the terms and conditions of a Second Amended Economic Development Incentive Agreement by and between the City of Plano, Texas and Diodes Incorporated, a Delaware corporation; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “I”)

**Resolution No. 2010-1-10(R)** to approve the terms and conditions of an Easement for Encroachments by and between Legacy North PT MFA II, L.P., and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “J”)

**Resolution No. 2010-1-11(R)** to approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, providing for the reconstruction of 14th Street from K Avenue to Ridgewood Drive; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “K”)

**Resolution No. 2010-1-12(R)** to approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Colin County, Texas, providing for the widening of McDermott Road from Coit Road to Ohio Drive; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “L”)

**Resolution No. 2010-1-13(R)** to approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, providing for major thoroughfare rehabilitation improvements on Plano Parkway, Preston Meadow Drive, Legacy Drive, Jupiter Road, Parker Road, Los Rios Boulevard, Ohio Drive and Premier Drive; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “M”)

**Resolution No. 2010-1-14(R)** to approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, providing for the widening of Chaparral Road from K Avenue to east of Cloverhaven Way; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “N”)

### **Adoption of Ordinances**

**Ordinance No. 2010-1-15** to amend Section 12-102(e) and adding Section 12-102(f) to Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances to prohibit the stopping, standing, or parking of motor vehicles on a certain section of Gifford Drive and to prohibit the parking of vehicles on a certain section of Gifford Drive, within the City limits of the City of Plano; declaring it unlawful and a misdemeanor to park motor vehicles upon such sections of such roadways within the limits herein defined; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, a severability clause, a savings clause, a publication clause, and an effective date. (Consent Agenda Item “O”)

### **END OF CONSENT**

Due to possible conflicts of interest, Deputy Mayor Pro Tem Dunlap stepped down from the bench on the following items.

**Bid No. 2010-27-B** for Meadows Addition project to Jim Bowman Construction Co., L.P., in the amount of \$1,106,456. (Consent Agenda Item “C”)

**Approval of Change Order** - To Jim Bowman Construction Company, LP, increasing the contract by \$59,190 for Ridgeview Drive from Independence Parkway to Coit Road, Change Order No. 1. (Original Bid No. 2009-105-B) (Consent Agenda Item “D”)

**Approval of Change Order** - To Jim Bowman Construction Company, L.P., increasing the contract by \$86,349 for the 2008 - 2009 Arterial Concrete Pavement Rehabilitation Project, Ohio Drive and Kings Manor Drive, Project No. 5984, Change Order No. 1, Bid No. 2009-174-B. (Consent Agenda Item “E”)

Upon a motion made by Council Member Callison and seconded by Council Member Harris, the Council voted 6-0 to approve Bid No. 2010-27-B for Meadows Addition project to Jim Bowman Construction Co., L.P., in the amount of \$1,106,456; a change order to Jim Bowman Construction Company, LP, increasing the contract by \$59,190 for Ridgeview Drive from Independence Parkway to Coit Road; and a change order to Jim Bowman Construction Company, L.P., increasing the contract by \$86,349 for the 2008 - 2009 Arterial Concrete Pavement Rehabilitation Project, Ohio Drive and Kings Manor Drive.

Deputy Mayor Pro Tem Dunlap resumed his seat on the bench.

**Ordinance No. 2010-1-16** to transfer the sum of \$49,000 from the Convention & Tourism Fund unappropriated fund balance to the Convention & Tourism Fund operating appropriation for Fiscal Year 2009-10 for the purpose of providing additional funds for the costs associated with conducting a Plano Convention Center feasibility and market study; amending the budget of the City and Ordinance 2009-9-13, Section 1, Item "H" to reflect the actions taken herein; declaring this action to be a case of public necessity; and providing an effective date. (Regular Agenda Item "1")

Deputy City Manager Hogan advised that this item appropriates funding for more specific studies related to development of a future conference center.

Upon a motion made by Mayor Pro Tem LaRosiliere and seconded by Council Member Callison, the Council voted 7-0 to transfer the sum of \$49,000 from the Convention & Tourism Fund unappropriated fund balance to the Convention & Tourism Fund operating appropriation for Fiscal Year 2009-10 for the purpose of providing additional funds for the costs associated with conducting a Plano Convention Center feasibility and market study; and further to adopt Ordinance No. 2010-1-16.

**Resolution No. 2010-1-17(R)** to approve the terms and conditions of an Agreement by and between North Star Research Corporation, a division of HVS Convention, Sports and Entertainment and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. (Regular Agenda Item "2")

Upon a motion made by Deputy Mayor Pro Tem Dunlap and seconded by Council Member Callison, the Council voted 7-0 to approve the terms and conditions of an agreement by and between North Star Research Corporation, a division of HVS Convention, Sports and Entertainment and the City of Plano; and further to adopt Resolution No. 2010-1-17(R).

**Public Hearing and consideration of Zoning Case 2009-24** to request to rescind a portion of the H-05 Heritage Resource Designation on 0.1± acre located on the west side of K Avenue, 355± feet south of 18th Street. Zoned Downtown Business/Government with Heritage Resource (Regular Agenda Item "3")

Planning Manager Firgens advised that this request is a result of the sale of property and the intent to clean up zoning. She further advised that both the Heritage Commission and the Planning and Zoning Commission recommended approval as submitted and that if approved an ordinance would come back to Council for consideration.

Mayor Dyer opened the Public Hearing. No one spoke either for or against the request. The Public Hearing was closed.

Upon a motion made by Council Member Miner and seconded by Mayor Pro Tem LaRosiliere, the Council voted 7-0 to rescind a portion of the H-05 Heritage Resource Designation on 0.1± acre located on the west side of K Avenue, 355± feet south of 18th Street as requested in Zoning Case 2009-24 and as recommended by the Planning and Zoning Commission.

**Resolution No. 2010-1-18(R)** to approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and ADS Alliance Data Systems, Inc., a Delaware corporation; authorizing its execution by the City Manager and providing an effective date. (Regular Agenda Item “4”)

Director of Finance Tacke advised that ADS Alliance Data Systems, Inc. would occupy no less than 84,200 square feet of commercial space and retain, transfer or create up to 216 full-time jobs by September 1, 2010 with the possibility of an additional 49 jobs by December 31, 2012. She advised that the terms of the agreement run from September 1, 2010 – August 31, 2020 in an amount of up to \$849,000.

Upon a motion made by Council Member Callison and seconded by Council Member Harris, the Council voted 7-0 to approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and ADS Alliance Data Systems, Inc.; and further to adopt Resolution No. 2010-1-18(R).

**Ordinance No. 2010-1-19** providing for the issuance and sale of City of Plano, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2010; levying a tax in payment thereof and pledging surplus municipal drainage utility system revenues in payment thereof; approving execution and delivery of a purchase contract; approving the Official Statement; and enacting other provisions relating thereto. (Regular Agenda Item “5”)

Vice Chairman of First Southwest Company David Medanich spoke to giving citizens of the City priority in orders for the bonds and the sales of \$28.5 million in General Obligation (GO) Refunding and Improvement Bonds, \$9.6 million in Combination Tax and Revenue Certificates of Obligation and \$6.8 million in Municipal Drainage Utility System Revenue Refunding and Improvement Bonds. He spoke to the low interest rates on all issuances, AAA ratings for the GO bonds and rating based on what the City has done and how it plans to move forward. Mr. Medanich spoke to the benefits of refunding drainage bonds. City Manager Muehlenbeck advised the Council that the sale includes bond authority from 2005 and 2009 elections and Director of Finance Tacke spoke to tying the lifespan of equipment to the term of certificates of obligation which are initiated by Council action.

Upon a motion made by Mayor Pro Tem LaRosiliere and seconded by Council Member Smith, the Council voted 7-0 to provide for the issuance and sale of City of Plano, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2010; levying a tax in payment thereof and pledging surplus municipal drainage utility system revenues in payment thereof; approving execution and delivery of a purchase contract; approving the Official Statement; and enacting other provisions relating thereto; and further to adopt Ordinance No. 2010-1-19.

**Ordinance No. 2010-1-20** providing for the issuance and sale of City of Plano, Texas, General Obligation Refunding and Improvement Bonds, Series 2010; levying a tax in payment thereof; approving the Official Statement; approving the execution and delivery of a purchase contract; and enacting other provisions relating thereto. (Regular Agenda Item “6”)

**Ordinance No. 2010-1-20 (cont'd)**

Upon a motion made by Council Member Callison and seconded by Council Member Miner, the Council voted 7-0 to provide for the issuance and sale of City of Plano, Texas, General Obligation Refunding and Improvement Bonds, Series 2010; levying a tax in payment thereof; approving the Official Statement; approving the execution and delivery of a purchase contract; and enacting other provisions relating thereto; and further to adopt Ordinance No. 2010-1-20.

**Ordinance No. 2010-1-21** providing for the issuance and sale of City of Plano, Texas, Municipal Drainage Utility System Revenue Refunding and Improvement Bonds, Series 2010; approving execution and delivery of a purchase contract; approving the Official Statement; and enacting other provisions relating thereto. (Regular Agenda Item "7")

Upon a motion made by Council Member Harris and seconded by Council Member Miner, the Council voted 7-0 to provide for the issuance and sale of City of Plano, Texas, Municipal Drainage Utility System Revenue Refunding and Improvement Bonds, Series 2010; approving execution and delivery of a purchase contract; approving the Official Statement; and enacting other provisions relating thereto; and further to adopt Ordinance No. 2010-1-21.

There being no further discussion, Mayor Dyer adjourned the meeting at 7:36 p.m.

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Phil Dyer, MAYOR

ATTEST:

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Diane Zucco, City Secretary



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/08/10		
Department:		Purchasing		
Department Head		Mike Ryan		
Agenda Coordinator (include phone #): <b>Aimee Storm ext 7248</b>				
<b>CAPTION</b>				
Award of Competitive Sealed Bid No. 2010-34-B for the purchase of Electronic Handheld Ticket Writers, in the amount of \$79,519, to Brazos Technology, and authorizing the City Manager or his designee to execute all necessary documents.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: <b>2009-2010</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	79,519	0	<b>79,519</b>
Encumbered/Expended Amount	0	0	0	<b>0</b>
This Item	0	-79,519	0	<b>-79,519</b>
BALANCE	0	0	0	<b>0</b>
<b>FUND(S):     TRAFFIC SAFETY FUND (283) AND COURT TECHNOLOGY FUND (234)</b>				
<b>COMMENTS:</b> Funds are available from both the 2009-10 Traffic Safety Fund Budget and the Municipal Courts Technology Fund Budget for the replacement of electronic ticket writing devices. <b>STRATEGIC PLAN GOAL:</b> Replacing the City's ticket writing devices and using updated technology relates to the City's Goals of "Financially Strong City with Service Excellence" and "Safe Large City"				
<b>SUMMARY OF ITEM</b>				
Staff recommends the Competitive Sealed Bid of Brazos Technology, in the amount of \$79,519 be accepted as the lowest responsive responsible bidder, and conditioned upon timely execution of any necessary contract documents. This is for the purchase of Electronic Handheld Ticket Writers.				
List of Supporting Documents: Recommendation Memo Bid Recap			Other Departments, Boards, Commissions or Agencies	



P.O. Box 860358  
Plano, Texas 75086-0358  
972-941-7000  
Fax. No. 972-941-0099  
<http://www.plano.gov>

## MEMORANDUM

**Date:** January 5, 2010  
**To:** Aimee Storm, Buyer  
**From:** Jeff Wise, Lieutenant  
**Subject:** Recommendation: Bid 2010-34-B

---

The Police Department, in conjunction with the Municipal Court Clerks Office, published the above listed solicitation to replace our current handheld electronic ticket writers. Upon review of the bids received, the Police Department **recommends an award of the total solicitation to Brazos Technology for \$79,519.00 as the lowest responsive, responsible bidder.**

# CITY OF PLANO

## BID NO. 2010-34-B Electronic Handheld Ticket Writers BID RECAP

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**Bid opening Date/Time:** December 28, 2009 @ 3:00PM

**Number of Vendors Notified:** 906

**Vendors Submitting "No Bids":** 0

**Number of Bids Submitted:** 8

COMPANY NAME	Total Bid
BRAZOS TECHNOLOGY	\$79,519.00
LOWRY HOLDING COMPANY, INC	\$87,129.46
RJL TECHNOLOGY INTERGRATION	\$87,736.51
MSA SYSTEMS, INC	\$89,472.20
APRISA TECHNOLOGY, INC	\$92,585.42
QUEST SOLUTION	\$95,436.00
SYSTEM ID	\$97,435.10
WORLDWIDE ENVIRONMENTAL PROD.	\$107,060.00

**Vendors Evaluated Non-Responsive to Specification:** 0

**Recommended Vendor(s):**

BRAZOS TECHNOLOGY

*Aimee Storm*

January 28, 2010

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Aimee Storm, Buyer

---

Date



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/8/10		
Department:		Purchasing/Fleet Services Division		
Department Head		Mike Ryan/Reid Choate		
Agenda Coordinator (include phone #): <b>Earl Whitaker x7074</b>				
<b>CAPTION</b>				
Approval of the purchase of eighteen (18) 2010 Chevrolet Black and White Police Patrol Tahoes in the amount of \$477,810.00 from Caldwell Country Chevrolet through an existing contract/Interlocal agreement with Tarrant County, and authorizing the City Manager or his designee to execute all necessary documents. (Tarrant County contract #2005-180).				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: <b>2009-10</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget		576,000	0	<b>576,000</b>
Encumbered/Expended Amount	0	0	0	<b>0</b>
This Item	0	-477,810	0	<b>-477,810</b>
<b>BALANCE</b>	<b>0</b>	<b>98,190</b>	<b>0</b>	<b>98,190</b>
<b>FUND(S):     EQUIPMENT REPLACEMENT FUND</b>				
<b>COMMENTS:</b> Funds are included in the FY 2009-10 adopted budget to purchase eighteen (18) Chevrolet Tahoes through an existing Contract/Interlocal Agreement with Tarrant County. Remaining balance will be used for other equipment purchases. <b>STRATEGIC PLAN GOAL:</b> Providing equipment purchases relates to the City's goal of a "Financially Strong City with Service Excellence."				
<b>SUMMARY OF ITEM</b>				
Staff recommends the purchase of eighteen (18) 2010 Chevrolet Black and White Police Patrol Tahoes in the amount of \$477,810.00 from Caldwell Country Chevrolet through an interlocal agreement with Tarrant County. The City is authorized to purchase from a Local Cooperative Organization pursuant to Section 271 subchapter F of the Local Government Code and by doing so satisfies any State Law requiring local governments to seek competitive bids for Items. (Tarrant County contract #2005-180)				
List of Supporting Documents: Award Memo			Other Departments, Boards, Commissions or Agencies N/A	

# Memorandum

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**To:** Earl Whitaker  
Buyer  
Purchasing Division

**From:** David Garza  
Fleet Superintendent

**Date:** 1/26/2010

**Re:** Award Memo OC 908837

## TARRANT CO CONTRACT # 2005-180 AWARD RECOMMENDATION

Fleet Services Division recommends the purchase to be awarded to Caldwell Country Chevrolet in the amount of \$477,810.00.

Fleet Services received quotes from four Texas co-operative contracts to determine the best value. The Tarrant County Contract was the lowest quote for eighteen (18) Police Tahoes with options. The results of the analysis were as follows:

Tarrant County #2005-180	\$477,810.00
Parker County	\$480,379.00
TASB #281-07	\$509,764.00
HGAC VE03-06	\$536,604.00

David A Garza  
Fleet Services Superintendent

The patrol vehicles used by the Plano Police Department must meet strict safety and performance guidelines. Currently there are few vehicle model options available that meet these criteria. In the past, the Department has evaluated and purchased several different vehicle models such as the [Ford Crown Victoria](#), [Chevrolet Impala](#), [Dodge Charger](#) and the [Chevrolet Tahoe](#). Of these vehicles, the Chevrolet Tahoe was found to offer the best overall solution for our patrol needs:

- Higher residual resale value
- Extended service longevity
- Extended warranty (100K miles)
- Flex Fuel (E85) compatibility
- [Mileage ratings](#) (comparable to the Ford Crown Victoria)
- Higher [ground clearance](#) resulting in less undercarriage damage
- Climate-controlled cabin to protect [electronic equipment](#) eliminating damage due to extreme temperatures (often found in the trunks of sedan-style vehicles)
- Much needed additional [cargo space](#) for [police equipment](#)
- [Larger front seating](#) area to accommodate taller drivers and passengers and additional space in the rear seating area for [prisoners](#)
- [Larger front cabin area](#) that allows for safe mounting of specialized equipment outside of the air bag deployment zones
- Operating costs for the Chevrolet Tahoe are lower than the Ford Crown Victoria: (Tahoe = \$.38 per mile; Crown Victoria = \$.46 per mile)
- Purchase price comparable to the Ford Crown Victoria: (Tahoe = \$24,878.00; Crown Victoria = \$22,500.00)

A special "Fuel Conservation Task Force", comprised of personnel from several different units within the Police Department, recently convened to discuss options for reducing fuel consumption and lowering our total carbon footprint. As a result of this meeting, it was decided that the non-patrol fleet will be replaced with Toyota Corolla vehicles.

In addition, a fuel-saving campaign has been initiated to promote fuel conservation by all Police Department employees, and our policies have been carefully examined and revised to eliminate any unnecessary travel in city-owned vehicles. Plans have also been made to purchase and evaluate five idle-reduction

units for use in the patrol Tahoes. These devices are intended to allow for emergency equipment in patrol vehicles to remain powered-up while the engine is turned off, in an effort to reduce unnecessary fuel consumption during extended police operations.

Prior to the purchase of this vehicle, Plano Police Officers were surveyed and after careful consideration, the Plano Police Department chose the 2008 Chevrolet Tahoe as our preferred patrol vehicle. After taking all factors into consideration, we feel that the Chevrolet Tahoe is the best vehicle to suit our needs.



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular <input type="checkbox"/> Statutory
Council Meeting Date:	02/08/10
Department:	Public Works & Engineering
Department Head	Alan L. Upchurch
Agenda Coordinator (include phone #):	<b>Irene Pegues (7198)</b> <span style="float:right"><b>Project No. 5999</b></span>

**CAPTION**

Approval of an Engineering contract by and between the City and Kimley-Horn and Associates, Inc., in the amount of \$119,500, for University Estates Waterline Rehabilitation, and authorizing the City Manager or his designee, to execute all necessary documentation.

**FINANCIAL SUMMARY**

NOT APPLICABLE       OPERATING EXPENSE       REVENUE       CIP

FISCAL YEAR: <b>2009-10</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	120,000	1,250,000	<b>1,370,000</b>
Encumbered/Expended Amount	0	0	0	<b>0</b>
This Item	0	-119,500	0	<b>-119,500</b>
BALANCE	0	500	1,250,000	<b>1,250,500</b>

**FUND(S):    WATER CIP**

**COMMENTS:** Funds are included in the 2009-10 Water CIP. This item, in the amount of \$119,500, will leave a current year balance of \$500 for the University Estates project.

**STRATEGIC PLAN GOAL:** Engineering design services for waterline reconstruction relate to the City's Goal of Financially Strong City with Service Excellence.

**SUMMARY OF ITEM**

This agreement with Kimley-Horn and Associates, Inc., is for engineering design for University Estates - Waterline Rehabilitation. This project includes rehabilitation of approximately 9,500 linear feet of residential waterlines at the following six (6) locations.

1.	Teakwood Lane	Independence Parkway to Roundrock Trail	2,850 LF
2.	Roundrock Trail	Teakwood Lane to Parker Road	1,430 LF
3.	Plateau Drive	Roundrock Trail to Canyon Valley Trail	1,225 LF
4.	Canyon Valley Trail	Parker Road to Teakwood Lane	1,360 LF
5.	Teakwood Lane	Canyon Valley Trail to Custer Road	1,830 LF
6.	Tapestry Court	Interlaken Drive to end of cul-de-sac	800 LF



## CITY OF PLANO COUNCIL AGENDA ITEM

The contract fee is \$119,500.00 and is detailed as follows:

Research and Data Collection	\$5,000
Design Survey	\$33,250
Preliminary Design	\$49,025
Final Design	\$16,125
Bid Phase	\$6,900
Construction Administration	\$9,200
<b>TOTAL BASIC FEE</b>	<b>\$119,500</b>

Special Services:

Permanent ROW Descriptions

Temp. Construction Easement Descriptions

**TOTAL SPECIAL SERVICES - NO CHARGE**

**TOTAL FEE SERVICES        \$119,500**

Funding is available from the 2009-10 Community Investment Program. Staff feels the fee is reasonable for this project estimated to cost \$1,438,000.

List of Supporting Documents:

Location Map

Engineering Services Agreement

Other Departments, Boards, Commissions or Agencies

N/A



# UNIVERSITY ESTATES – WATERLINE REHABILITATION

PROJECT NO. 5999

## ENGINEERING SERVICES AGREEMENT

**THIS AGREEMENT** is made and entered by and between the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, hereinafter referred to as "City", and **KIMLEY-HORN AND ASSOCIATES, INC.**, a **NORTH CAROLINA** Corporation licensed to do business in the State of Texas, hereinafter referred to as "Engineer", to be effective from and after the date as provided herein.

### WITNESSETH:

**WHEREAS**, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **UNIVERSITY ESTATES – WATERLINE REHABILITATION** project located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

**WHEREAS**, the Engineer desires to render such engineering services for the City upon the terms and conditions provided herein.

**NOW, THEREFORE**, for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

#### **I. Employment of the Engineer**

The City hereby agrees to retain the Engineer to perform professional engineering services in connection with the Project. Engineer agrees to perform such services in accordance with the terms and conditions of this Agreement.

#### **II. Scope of Services**

The parties agree that Engineer shall perform such services as are set forth and described in Exhibit "A", which is attached hereto and thereby made a part of this Agreement. The parties understand and agree that deviations or modifications in the form of written contract modifications may be authorized from time to time by the City.

### **III. Schedule of Work**

The Engineer agrees to commence work immediately upon execution of this Agreement, and to proceed diligently with said work, except for delays beyond the reasonable control of Engineer, to completion as described in the Completion Schedule, attached hereto as Exhibit "B" and thereby made a part of this Agreement.

### **IV. Compensation and Method of Payment**

The parties agree that Engineer shall be compensated for all services provided pursuant to this Agreement in the amount and manner described and set forth in the Payment Schedule attached hereto and incorporated herein as Exhibit "C". The contract amount specified in Exhibit "C" shall not be exceeded without the written permission of the City.

### **V. Information to be Provided by the City**

The City agrees to furnish, prior to commencement of work, all that information requested by Engineer and available in City's files.

### **VI. Insurance**

Engineer agrees to meet all insurance requirements, and to require all consultants who perform work for Engineer to meet all insurance requirements, as set forth on Exhibit "D", which is attached hereto and thereby made a part of this Agreement.

Engineer agrees to notify the City of any changes in insurance policy coverage, including but not limited to changes in limits and cancellation. The Engineer shall notify the City in writing of any changes within forty-eight (48) hours of the change. The Engineer's notice shall include a description of the changes and how those changes vary from the insurance requirements of the contract/agreement.

### **VII. INDEMNITY**

**ENGINEER SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD CITY AND ITS OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO, OR RESULTING FROM THE SERVICES PROVIDED BY ENGINEER AND TO THE EXTENT CAUSED BY THE NEGLIGENT ACT OR OMISSION OR INTENTIONAL WRONGFUL ACT OR OMISSION OF ENGINEER, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR**

**WHOM ENGINEER IS LEGALLY RESPONSIBLE (HEREINAFTER "CLAIMS"). ENGINEER IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS.**

**IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE DEFENSE COUNSEL TO BE RETAINED BY ENGINEER IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF ENGINEER'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF ENGINEER'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. ENGINEER SHALL RETAIN CITY APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF ENGINEER FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND ENGINEER SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY.**

#### **VIII. Independent Contractor**

Engineer covenants and agrees that Engineer is an independent contractor and not an officer, agent, servant or employee of City; that Engineer shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between City and Engineer, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Engineer.

#### **IX. Assignment and Subletting**

The Engineer agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the City. The Engineer further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Engineer from its full obligations to the City as provided by this Agreement.

#### **X. Audits and Records/Prohibited Interest**

The Engineer agrees that at any time during normal business hours and as often as City may deem necessary, Engineer shall make available to representatives of the City for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the City to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts,

invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, all for a period of one (1) year from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

The Engineer agrees that it is aware of the prohibited interest requirements of the City Charter and Code of Conduct and will abide by the same. Further, a lawful representative of Engineer shall execute the affidavit shown in Exhibit "E". Engineer understands and agrees that the existence of a prohibited interest during the term of this contract will render the contract voidable.

### **XI. Contract Termination**

The parties agree that City shall have the right to terminate this Agreement with or without cause upon thirty (30) days written notice to Engineer. In the event of such termination, Engineer shall deliver to City all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by Engineer in connection with this Agreement. Engineer shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to termination.

### **XII. Engineer's Opinion of Probable Construction Costs**

The parties recognize and agree that any and all opinions of probable construction costs prepared by Engineer in connection with the Project represent the best judgment of Engineer as a design professional familiar with the construction industry, but that the Engineer does not guarantee that any bids solicited or received in connection with the Project will not vary from opinions prepared by Engineer.

### **XIII. Ownership of Documents**

Original drawings and specifications are the property of the Engineer; however, the Project is the property of the City and Engineer may not use the drawings and specifications therefor for any purpose not relating to the Project without City's consent. City shall be furnished with such reproductions of drawings and specifications as City may reasonably require. Upon completion of the work or any earlier termination of this Agreement under Article XI, Engineer will revise drawings to reflect changes made during construction and he will promptly furnish the City with one (1) complete set of reproducible record prints. Prints shall be furnished, as an additional service, at any other time requested by City. All such reproductions shall be the property of the City who may use them without Engineer's permission for any proper purpose including, but not limited to, additions to or completion of the Project. However, use of the documents for other than their intended purpose shall be at the sole risk of the City.

#### **XIV. Complete Contract**

This Agreement, including the Exhibits lettered "A" through "E", constitute the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument.

#### **XV. Mailing of Notices**

Unless instructed otherwise in writing, Engineer agrees that all notices or communications to City permitted or required under this Agreement shall be addressed to City at the following address:

City of Plano  
Public Works & Engineering Department  
P.O. Box 860358  
Plano, TX 75086-0358

City agrees that all notices or communications to Engineer permitted or required under this Agreement shall be addressed to Engineer at the following address:

Kimley-Horn and Associates, Inc.  
12700 Park Central Drive, Suite 1800  
Dallas, TX 75251  
Attn: Anthony Samarripas

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is posted by the sending party.

#### **XVI. Miscellaneous**

**A. Paragraph Headings:**

The paragraph headings contained herein are for convenience only and are not intended to define or limit the scope of any provision in this Agreement.

**B. Contract Interpretation:**

Although this Agreement is drafted by the City, should any part be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

**C. Venue/Governing Law:**

The parties agree that the laws of the State of Texas shall govern this Agreement, and that it is performable in Collin County, Texas. Exclusive venue shall lie in Collin County, Texas.

D. Successors and Assigns:

City and Engineer, and their partners, successors, subcontractors, executors, legal representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

E. Severability:

In the event a term, condition, or provision of this Agreement is determined to be void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect.

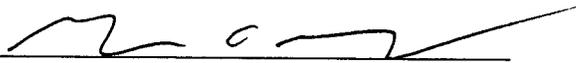
F. Effective Date:

This Agreement shall be effective from and after execution by both parties hereto.

**SIGNED** on the date indicated below.

**KIMLEY-HORN AND ASSOCIATES,  
INC.**  
A **NORTH CAROLINA** Corporation,  
Licensed to do Business in the State of  
Texas

DATE: 1-8-10

BY:   
Glenn Gary  
SENIOR VICE PRESIDENT

**CITY OF PLANO, TEXAS**

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Thomas H. Muehlenbeck  
CITY MANAGER

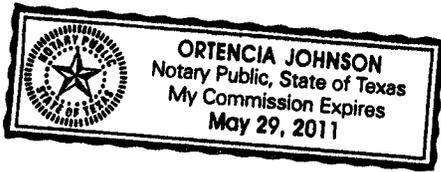
**APPROVED AS TO FORM:**

\_\_\_\_\_  
Diane C. Wetherbee  
CITY ATTORNEY

**ACKNOWLEDGMENTS**

STATE OF TEXAS       §  
                                  §  
COUNTY OF TARRANT §

This instrument was acknowledged before me on the 2 day of January, 2010, by **GLENN GARY, SENIOR VICE PRESIDENT**, of **KIMLEY-HORN AND ASSOCIATES, INC.**, a **NORTH CAROLINA** corporation licensed to do business in the State of Texas, on behalf of said corporation.



Ortencia Johnson  
Notary Public, State of Texas

STATE OF TEXAS       §  
                                  §  
COUNTY OF COLLIN §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, by **THOMAS H. MUEHLENBECK, City Manager**, of the **City of Plano, Texas**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

\_\_\_\_\_  
Notary Public, State of Texas

## EXHIBIT "A"

### SCOPE OF SERVICES

#### UNIVERSITY ESTATES WATERLINES PROJECT NO. 5999

#### PROJECT DESCRIPTION:

This project includes preliminary and final design and construction related professional engineering services for the replacement or installation of approximately 9,495 L.F. of 8" water lines to include all related appurtenances (such as: valves, services, fire hydrants, etc.). In general, all new water lines shall be 8" diameter except on short dead end cul-de-sacs, where water lines shall be 6" diameter unless a fire hydrant is existing or proposed. In those cases the water line shall be an 8" with a 6" gate valve and 6" fire hydrant lateral. Fire hydrants shall be installed if existing fire hydrants are more than 500' apart. In most locations of the City, the typical water line location is 3' off existing curb face, in which case water line replacement and would be at the curb face. However, several of the existing water lines on this project are in a non-standard location, so the replacement location will vary. As a general rule, water line replacement on this project should be designed to prevent the need for walk and driveway replacement. Also, existing water meters, which fall in the walk, need to be relocated out of the walk with the project.

The project includes the following locations:

	<b>Street</b>	<b>Limits</b>	<b>Footage</b>
1.	Teakwood Lane	Independence Prkwy to Roundrock Trail	2,850
2.	Roundrock Trail	Teakwood Lane to Parker Road	1,430
3.	Plateau drive	Roundrock Trail to Canyon Valley Trail	1,225
4.	Canyon Valley Trail	Parker Road to Teakwood Lane	1,360
5.	Teakwood Lane	Canyon Valley Trail to Custer Road	1,830
6.	Tapestry Court	Interlaken Drive to end	800
		<b>Total</b>	<b>9,495</b>

## **BASIC SERVICES:**

### **A. Design Standards**

1. This project shall be designed in accordance with the following:

Geodetic Monumentation Manual

Manual for Right-of-Way Management

Storm Drainage Design Manual

Stream Bank Stabilization Manual

Erosion & Sediment Control Manual

Thorough Fare Standards Rules & Regulations

Manual for the Design of Water & Sanitary Sewer Lines

Standard Construction Details

Barrier Free Ramp Details

NCTCOG Standard Specifications for Public Works  
Construction

Special Provisions to Standard Specifications for Public  
Works Construction

2. All plans submitted to the City shall be signed and sealed in accordance with state law.

### **B. Research and Data Collection**

1. Meet with City of Plano engineering staff and obtain design criteria, pertinent utility plans, street plans, plats and right-of-way maps, existing easement information, and other information available for the project area.
2. Meet with the City of Plano project manager and conduct an on-site review and walk through.
3. Request and research for plans on existing power, telephone, gas, cable or other utilities in the project area to show on the plans.
4. The extent of replacement due to existing condition of pavement, curb, sidewalk and driveways will be determined and provided to the consultant by City Engineering Dept. staff (after obtaining input from the City Public Works Dept.) with the first plan review and will be shown by consultant on plans and included in the project. The extent of replacement for these items due to project construction will be determined and recommended by the consultant. This will depend upon where the water line replacement occurs. If water line work requires replacement of the adjacent curb, then lead walks and drives must be replaced. Drives replaced must have a minimum 4' section with a 2% cross slope matching existing adjacent walk.

### **C. Design Survey**

1. Establish a horizontal and vertical control network and project control baseline for the project areas. The network and baseline are to be tied into the existing City of Plano control network.
2. Establish horizontal and vertical project control monumentation.
3. Tie right-of-way lines and corners, property lines and corners, fence lines, trees 4-inches in diameter and larger, edges of pavements and all other visible surface features to the project control baseline. Effort will be made to locate existing utilities through dig-test, survey identification and plan research and referenced by utility name (i.e. Oncor Elec., Verizon Telephone, Atmos Gas, Etc.).
4. Vertical topographic information tying pavement, drives, walls, manholes (top and inverts), storm drain inlets (top and inverts), and other improvements as needed within the project areas for the design.
5. Provide spot elevation ties as necessary for existing and proposed curb profiles on side where water line is to be replaced. Provide additional cross sections at driveways (to the back of walk line and 10' beyond).
6. When underground utilities are exposed, tie to project control baseline.
7. Identify the street address of all adjacent properties to the proposed construction and show on drawings.

### **D. Preliminary Design**

1. Prepare preliminary construction plans (Sheet size 22" x 34"). Prepare the following sheets at the engineering scale indicated:
  - Cover sheet.
  - Project layout control sheets. Scale 1"= 100'.
  - General Notes
  - Quantity sheet (by individual location and sheet by sheet).
  - Typical sections and detail sheets.
- Plan and profile sheets for water improvements (scale 1"=20' horizontal and 1"=5' vertical). Profile required only for water lines 12" and larger. Otherwise, profiles are required only for points where the proposed water line is anticipated to conflict with other underground utility lines. Sheets should show: existing topographic features; existing utilities; property addresses with individual lot property lines; easements; public ROW lines; horizontal alignment of existing and proposed pipelines; plan view of existing and proposed waterlines; sidewalk, driveway and pavement replacement; existing and proposed curb profile.
- Prepare a traffic control plan related to lane closure for construction. Traffic control plan will be shown on one plan sheet at a scale of 1" = 50'. Provide detailed construction phasing language. In high traffic areas a more detailed traffic control plan will be provided. The areas where specific traffic control plans are anticipated are as follows:
  - Independence and Teakwood
  - Custer and Teakwood

- Round Rock and W. Parker
- SWPPP sheets meeting EPA and City of Plano requirements. If area disturbed (including storage or access areas) includes more than 1 acre, the City of Plano SWPPP "WORD" file plan sheet shall be included in the plans. City standard details for erosion control devices shall also be included where applicable.
- Plans shall include modifications for driveway repairs in the event that an existing driveway cross slope does not meet current ADA requirements. Driveways which must be repaired due to water line installation will be replaced with slopes which meet ADA requirements. Plans shall show existing driveway elevations as well as proposed elevations and slopes and limits of driveway repairs. A detailed design for each individual driveway will not be prepared, nor will a detailed cross section. Elevations and general notes will be provided for driveway repairs. It is estimated that up to ten (10) driveways will require repair.

Information required can be combined on sheets if the information can be clearly shown and is approved by the City of Plano project manager.

2. Coordinate with affected utilities such as water, gas, telephone, cable TV and electric to obtain accurate information for the location of their facilities.
3. Prepare outline of any special technical specifications needed for the project (if any).
4. Prepare an estimate of construction quantities and develop the preliminary statement of probable construction cost.
5. Submit five (5) sets of preliminary plans, and one (1) set of outline of special technical specifications and preliminary statement of probable construction cost to the City for review.
  - Engineering
  - Public Works
  - Inspectors
  - Transportation
  - Other (file copy)
6. Meet with City of Plano staff to discuss City comments on preliminary plans, specifications and cost estimates.
7. Distribute the preliminary plans and proposed schedule for bidding and start of construction to local utility companies to obtain information regarding impacts to their facilities.

#### **E. Final Design**

1. Revise preliminary plans incorporating comments from the City of Plano.
2. Incorporate comments from the utility companies.
3. Finalize construction plans for proposed improvements.
4. Finalize special technical specifications and special conditions (if any).

5. Incorporate standard details into the construction plans and prepare additional details as required.
6. Take off final construction quantities and prepare final construction cost estimates.
7. Submit five (5) set of pre-final plans, and one (1) set of special technical specifications, draft bid schedule and final statement of probable construction cost to the City for review.
8. Incorporate City final comments into the plans and bid documents.
9. Submit three sets of final black line prints, three bound copies of the bid documents and one unbound original bid document set to the City of Plano.
10. Attend a utility coordination meeting to start relocation process with affected franchise utilities. Distribute copy of final plans and proposed schedule for bid letting and construction to all affected franchise utilities.

#### **F. Bid Phase Services**

1. Assist the City staff in advertising for bids.
2. Furnish plans and specifications for bidding. Cost for these to be recouped by non-refundable deposit from contractors. Maintain a list of plan holders.
3. Submit one (1) set of final blue/black line prints and one (1) bound copy of the bid documents to the designated Material Testing laboratory.
4. Furnish plans and bid documents for up to four (4) plan review rooms to be determined by the City. These documents are to be furnished at no cost to the plan review rooms.
5. Prepare and distribute addenda to bid documents as necessary.
6. Assist City staff as required in bid opening. Submit list of plan holders to the City, 48-hours prior to the bid letting.
7. Submit a CD-ROM disk of the bid set plans in a PDF format.
8. Provide bid tabulation to the City of Plano within four working days of the bid letting.
9. Evaluate the low and second low bidders. Prepare letter of recommendation to the City of Plano for awarding a contract to the lowest responsible bidder within four working days of the bid letting.
10. Assist City staff in a pre-construction conference.
11. Furnish eleven (11) full size and four (4) half size sets of final construction plans and seven (7) sets of the contract documents manual to the City for construction.

#### **G. Construction Administration**

1. No site visits, other than a final walk through, are anticipated for this project.
2. Provide written responses to requests for information or clarifications.
3. Prepare plan and quantity revisions as required for change orders. The City of Plano will prepare the actual change order and get it executed by the contractor.

4. Assist the City staff in conducting the final inspection.
5. Recommend final acceptance of work when acceptable.
6. Prepare construction "Record Drawings" based upon mark-ups and information provided by the construction contractor. Submit one blackline set to the City and a two (2) CD-ROM disks containing scanned images of the 22" x 34" final "as constructed" blackline drawings (with "record drawing stamps" bearing the signature of the Engineer and the date). The drawings shall be scanned 1 to 1 as Group 4 TIF files at a minimum resolution of 200 dots per inch and a maximum resolution of 400 dots per inch. The TIF files shall be legible and shall include any post processing that may be required to enhance image quality (e.g., de-speckling, de-shading, de-skewing, etc.). Each file shall be named in numeric order.

**H. Construction Control Survey –**

1. Set vertical and horizontal control for construction at 500' intervals, or a minimum of one at each end of the project. (on the ground)

**SPECIAL SERVICES:**

**A. Right-of-Way and Easement Surveying –**

No easements are anticipated for this project.

**B. Other Direct Expenses –**

1. Printing, Mileage, & Courier

**EXHIBIT "B"**

**SCHEDULE OF WORK**

**UNIVERSITY ESTATES WATERLINES  
PROJECT NO. 5999**

<b>ACTIVITY</b>	<b>COMPLETION TIME (Calendar Days)</b>
1. Notice to Proceed	
2. Research and Data Collection	5
3. Design Survey	30
4. Preliminary Design	60
5. City Review	7
6. Final Design (Pre-Final Submittal) / ROW & Easement Documents	21
7. City Review	7
8. Final Design/Documents for Bidding	14
9. City Review	7
10. Advertise for Bids	
11. Receive Bids	
12. Recommendation	
13. Prepare Council Agenda	
14. Council Award	
15. Prepare/Execute Contract	
16. Schedule Preconstruction Meeting	
17. Notice to Proceed	
18. Construction	

**EXHIBIT "C"**

**COMPENSATION AND METHOD OF PAYMENT**

**UNIVERSITY ESTATES WATERLINES  
PROJECT NO. 5999**

	<b>WORK STAGE SUBMITTAL OR COMPLETION</b>	<b>TOTAL</b>
1.	Research and Data Collection	\$5,000
2.	Design Survey	\$33,250
3.	Preliminary Design	\$49,025
4.	Final Design	\$16,125
5.	Bid Phase	\$6,900
6.	Construction Administration	\$9,200
	<b>Total Basic Fee</b>	<b>\$119,500</b>
7.	Special Services	
	a. Permanent ROW Descriptions	-
	b. Temp. Construction Easement Descriptions	-
	<b>Total Special Services</b>	<b>-</b>
	<b>Total Fee</b>	<b>\$119,500</b>

**EXHIBIT "D"**  
**ENGINEERING**  
**INSURANCE**

**INSURANCE:** (Review this section carefully with your insurance agent prior to bid or proposal submission. See "Insurance Checklist" on the last page or specific coverages applicable to this contract).

**1. General Insurance Requirements:**

- 1.1 The Engineer (hereinafter called "Engineer") shall not start work under this contract until the Engineer has obtained at his own expense all of the insurance called for here under and such insurance has been approved by the City. Approval of insurance required of the Engineer will be granted only after submission to the Purchasing Agent of original, signed certificates of insurance or, alternately, at the City's request, certified copies of the required insurance policies.
- 1.2 All insurance policies required hereunder shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, non-renewal, without first providing the Risk Manager, City of Plano, at least ten (10) days prior written notice."

**NOTE: The words "endeavor to" and "but failure to mail such notice shall impose no obligation to liability of any kind upon the company, its agents or representatives" are to be eliminated from the cancellation provision of standard ACORD certificates of insurance.**

- 1.3 No acceptance and/or approval of any insurance by the City shall be construed as relieving or excusing the Engineer from any liability or obligation imposed upon the provisions of the Contract.
- 1.4 The City of Plano (including its elected and appointed officials, agents, volunteers, and employees) is to be named as an additional insured under Engineer's General Liability Policy, and the certificate of insurance, or the certified policy, if requested, must so state. Coverage afforded under this paragraph shall be primary as respects the City, its elected and appointed officials, agents and employees.
  - 1.4.1 The following definition of the term "City" applies to all policies issued under the contract:

The City Council of the City of Plano and any affiliated or subsidiary Board, Commission Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board Commission, Authority, Committee, or Independent Agency is either a Body Politic created by the City Council of the City of Plano, or one in which controlling interest is vested in the City of Plano; and City of Plano Constitutional Officers.
- 1.5 The Engineer shall provide insurance as specified in the "Insurance Checklist" (Checklist) found on the last page of the bid or proposal form. Full limits of insurance required in the Checklist of this agreement shall be available for claims arising out of this agreement with the City of Plano.

- 1.6 Engineer agrees to defend and indemnify the City of Plano, its officers, agents and employees as provided in Paragraph VII. of this contract.
- 1.7 Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Engineer fail to provide acceptable evidence of current insurance within seven (7) days of written notice at any time during the Contract Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Engineer, and the Engineer shall be liable to the City for the entire additional cost of procuring performance and the cost of performing the incomplete portion of the Contract at time of termination.
- 1.8 Written requests for consideration of alternate coverages must be received by the City Purchasing Manager at least ten (10) working days prior to the date set for receipt of bids or proposals. If the City denies the request for alternative coverages, the specified coverages will be required to be submitted.
- 1.9 All required insurance coverages must be acquired from insurers authorized to do business in the State of Texas and acceptable to the City. The City prefers that all insurers also have a policyholder's rating of "A-" or better, and a financial size of "Class VI" or better in the latest edition of A.M. Best, or A or better by Standard and Poors, unless the City grants specific approval for an exception.
- 1.10 Any deductibles shall be disclosed in the Checklist and all deductibles will be assumed by the Engineer. Engineer may be required to provide proof of financial ability to cover deductibles, or may be required to post a bond to cover deductibles.

**2. Engineer's Insurance - "Occurrence" Basis:**

- 2.1 The Engineer shall purchase the following insurance coverages, including the terms, provisions and limits shown in the Checklist.
  - 2.1.1 Commercial General Liability - Such Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:
    - i. General aggregate limit is to apply per project;
    - ii. Premises/Operations;
    - iii. Actions of Independent Contractors;
    - iv. Contractual Liability including protection for the Engineer from claims arising out of liability assumed under this contract;
    - v. Personal Injury Liability including coverage for offenses related to employment;
    - vi. Explosion, Collapse, or Underground (XCU) hazards; if applicable. This coverage required for any and all work involving drilling, excavation, etc.
  - 2.1.2 Business Automobile Liability including coverage for any owned, hired, or non-owned motor vehicles and automobile contractual liability.

- 2.1.3 Workers' Compensation - statutory benefits as required by the State of Texas, or other laws as required by labor union agreements, including Employers' Liability coverage.

### **3.0 Engineer's Insurance – Claims Made**

#### Professional Errors and Omissions

The Engineer shall carry Professional Liability insurance which will pay for injuries arising out of negligent errors or omissions in the rendering, or failure to render professional services under the contract, for the term of the Contract and up to three years after the contract is completed in the amount shown in the Checklist.

Professional Errors and Omissions, Limit \$1,000,000  
per claim and aggregate of \$3,000,000

# ENGINEERING

## City of Plano - Insurance Checklist

("X" means the coverage is required.)

### Coverages Required

### Limits (Figures Denote Minimums)

1. Workers' Compensation & Employers' Liability

Statutory limits of State of Texas  
\$100,000 accident \$100,000 disease  
\$500,000 policy limit disease

2. For Future Use

3. City Approved Alternative Workers' Comp. Program

\$150,000 medical, safety program

4. General Liability

Complete entry No. 26  
Minimum \$500,000 each occurrence  
\$1,000,000 general aggregate

No →  5. General aggregate applies per project (CGL)

6. Premises/Operations

(Items No. 3-10 & 12 require)

7. Independent Contractors

\$500,000 combined single limit for bodily injury and property damage

8. Products

damage each occurrence with

9. Completed Operations

\$1,000,000 general aggregate that applies to project under contract

10. Contractual Liability

11. Personal Injury Liability

\$500,000 each offense & aggregate

12. XCU Coverages

13. Automobile Liability

\$500,000 Bodily Injury & Property

14. Owned, Hired & Non-owned

Damage each accident

15. Motor Carrier Act Endorsement

No →  16. Professional Liability

\$1,000,000 each claim  
\$3,000,000 aggregate

17. Garage Liability

\$\_\_\_\_\_ BI & PD each occurrence

- 18. Garagekeepers' Legal \$ \_\_\_\_\_ - Comprehensive  
\$ \_\_\_\_\_ - Collision
- 19. Owners Protective Liability \$500,000 Combined single limits
- 20. City named as additional insured on General Liability policy. This coverage is primary to all other coverages the City may possess.
- 21. City provided with Waiver of Subrogation on Workers' Compensation or Alternative program if applicable.
- 22. Ten (10) days notice of cancellation, non-renewal, endorsement required. The words "endeavor to" and "but failure" (to end of sentence) are to be eliminated from the Notice of Cancellation provision on standard ACORD certificates.
- 23. The City of Plano prefers an A.M. Best's Guide Rating of "A-", "VI" or better or Standard and Poors Rating AA or better; Authorized to do business in the State of Texas (not applicable for workers' compensation assigned through pool or alternative compensation programs).
- 24. The Certificate must state project title and project number.
- 25. Other Insurance Required:

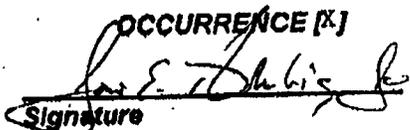
**INSURANCE AGENT'S STATEMENT**

I have reviewed these requirements with the Engineer named below. Additionally:

26. The above policy(s) carry the following deductibles: 0

Full limits of coverage available for:  
 General Liability  Professional Liability N/A  
 Automobile Liability

27. Liability policies are (Indicate):

OCCURRENCE   
  
 Signature

CLAIMS MADE   
12/15/09  
 Date

James E. Abercrombie, Jr.  
 Insurance Agent (Print)

Kimley-Horn and Assoc., Inc.  
 Name of Insured

12/15/09  
 Date

**WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY  
WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

**This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.**

**CITY OF PLANO**

**PROJECT: UNIVERSITY ESTATES WATERLINES; PROJECT #5999**

The premium for this endorsement is \$ NIL

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy).

Endorsement Effective 12/15/2009

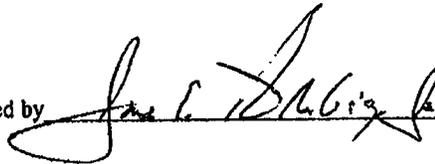
Policy No. 836G878-3-09

Endorsement No.

Insured Kimley-Horn and Associates, Inc.

Insurance Company Travelers Property Casualty Co of America

Countersigned by



WC000313 (6-93)

**Engineering Services Agreement  
University Estates – Waterline Rehabilitation  
Project No. 5999**

**Exhibit D – Page 6**

<b>ACORD™ CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) 12/15/2009
PRODUCER (904) 396-4404 ABERCROMBIE INSURANCE AGENCY, INC. P. O. BOX 5857  JACKSONVILLE FL 32247-5857		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED KIMLEY-HORN AND ASSOCIATES, INC. P. O. BOX 33068  RALEIGH NC 27636-3068		INSURERS AFFORDING COVERAGE INSURER A: TRAVELERS PROF CASUALTY 25674 INSURER B: COMPANY OF AMERICA INSURER C: (A.M. BEST RATING A+) INSURER D: INSURER E:

**COVERAGES**  
 THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR/ADD'L LTR INSUR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CONTRACTUAL LIAB GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	P-630-315X3476-TCT-09  INCLUDES INDEPENDENT CONTRACTORS	09/01/2009 // //	09/01/2010 // //	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS  GARAGE LIABILITY <input type="checkbox"/> ANY AUTO	P-810-171L6115-IND-09	09/01/2009 // //	09/01/2010 // //	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC AGG \$
A	EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10,000	CUP-171L6115-TIL-09  EXCESS OVER WC,AUTO,LIAB	09/01/2009 // //	09/01/2010 // //	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	836G878-3-09	09/01/2009 // //	09/01/2010 // //	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input checked="" type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS  
 PROJECT: UNIVERSITY ESTATES WATERLINES; PROJECT #5999. SPECIAL ENDORSEMENTS ATTACHED. CITY OF PLANO IS AN ADD'L INSURED FOR GENERAL LIABILITY FOR THIS PROJECT. ALL POLICIES ARE PRIMARY & INCLUDE WAIVER OF SUBROGATION.

<b>CERTIFICATE HOLDER</b> ( ) - ( ) - PUBLIC WORKS & ENGINEERING DEP  CITY OF PLANO P O BOX 860358  PLANO TX 75086-0358	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL <del>SEND</del> MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, <del>BY</del> <del>THE</del> <del>INSURER</del> AUTHORIZED REPRESENTATIVE <i>Jan E. [Signature]</i>
--	--

# ENGINEERING

## City of Plano - Insurance Checklist

("X" means the coverage is required.)

### Coverages Required

### Limits (Figures Denote Minimums)

- |  |  |
|--|--|
| <input type="checkbox"/> 1. Workers' Compensation & Employers' Liability     | Statutory limits of State of Texas<br>\$100,000 accident \$100,000 disease<br>\$500,000 policy limit disease |
| <input type="checkbox"/> 2. For Future Use                                   |  |
| <input type="checkbox"/> 3. City Approved Alternative Workers' Comp. Program | \$150,000 medical, safety program  |
| <input type="checkbox"/> 4. General Liability                                | Complete entry No. 26<br>Minimum \$500,000 each occurrence<br>\$1,000,000 general aggregate                  |
| <input type="checkbox"/> 5. General aggregate applies per project (CGL)      |  |
| <input type="checkbox"/> 6. Premises/Operations                              | (Items No. 3-10 & 12 require)  |
| <input type="checkbox"/> 7. Independent Contractors                          | <u>\$500,000</u> combined single limit for bodily injury and property damage                                 |
| <input type="checkbox"/> 8. Products   | damage each occurrence with  |
| <input type="checkbox"/> 9. Completed Operations                             | \$1,000,000 general aggregate that applies to project under contract   |
| <input type="checkbox"/> 10. Contractual Liability                           |  |
| <input type="checkbox"/> 11. Personal Injury Liability                       | \$500,000 each offense & aggregate   |
| <input type="checkbox"/> 12. XCU Coverages                                   |  |
| <input type="checkbox"/> 13. Automobile Liability                            | \$500,000 Bodily Injury & Property   |
| <input type="checkbox"/> 14. Owned, Hired & Non-owned                        | Damage each accident   |
| <input type="checkbox"/> 15. Motor Carrier Act Endorsement                   |  |
| <input checked="" type="checkbox"/> 16. Professional Liability               | \$1,000,000 each claim<br>\$3,000,000 aggregate  |
| <input type="checkbox"/> 17. Garage Liability                                | \$ _____ BI & PD each occurrence   |

18. Garagekeepers' Legal \$ \_\_\_\_\_ - Comprehensive  
\$ \_\_\_\_\_ - Collision
19. Owners Protective Liability \$500,000 Combined single limits
20. City named as additional Insured on General Liability policy. This coverage is primary to all other coverages the City may possess.
21. City provided with Waiver of Subrogation on Workers' Compensation or Alternative program if applicable.
- X   22. Ten (10) days notice of cancellation, non-renewal, endorsement required. The words "endeavor to" and "but failure" (to end of sentence) are to be eliminated from the Notice of Cancellation provision on standard ACORD certificates.
- X   23. The City of Plano prefers an A.M. Best's Guide Rating of "A-", "VI" or better or Standard and Poors Rating AA or better; Authorized to do business in the State of Texas (not applicable for workers' compensation assigned through pool or alternative compensation programs).
- X   24. The Certificate must state project title and project number.
- X   25. Other Insurance Required:

**INSURANCE AGENT'S STATEMENT**

*I have reviewed these requirements with the Engineer named below. Additionally:*

- X   26. The above policy(s) carry the following deductibles: \$1,000,000

Full limits of coverage available for:

General Liability \_\_\_\_\_ Professional Liability   X    
 Automobile Liability \_\_\_\_\_

- X   27. Liability policies are (indicate):

OCCURRENCE <input checked="" type="checkbox"/>	CLAIMS MADE <input checked="" type="checkbox"/>
 _____ Signature	<u>12/15/2009</u> Date

Matias Ormaza  
Insurance Agent (Print)

Kimley-Horn and Associates  
Name of Insured

12/15/09  
Date

**\*\*FOR PROFESSIONAL LIABILITY ONLY\*\***



## **IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## **DISCLAIMER**

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

ACORD 25 (2009/01)  
INS025 (200901)

**EXHIBIT "E"**

**AFFIDAVIT OF NO PROHIBITED INTEREST**

I, the undersigned declare and affirm that no person or officer of **KIMLEY-HORN AND ASSOCIATES, INC** (herein "Contractor") is either employed by the City of Plano or is an elected official of the City of Plano and who has a financial interest, direct or indirect, in any contract with the City of Plano or has a financial interest, directly or indirectly, in the sale to the City of Plano of any land, or rights or interest in any land, materials, supplies or service. As per Section 11.02 of the Plano City Charter, interest represented by ownership of stock by a City of Plano employee or official is permitted if the ownership amounts to less than one (1) per cent of the corporation stock.

I further understand and acknowledge that the existence of a prohibited interest at any time during the term of this contract will render the contract voidable.

Kimley-Horn and Associates, Inc.  
Name of Consultant

By: [Signature]  
Signature

Glenn A. Gary  
Print Name

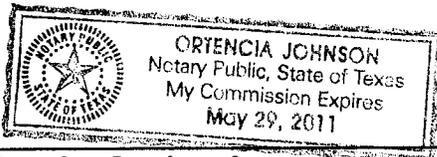
Senior Vice President  
Title

1/8/10  
Date

STATE OF TEXAS §

COUNTY OF TARRANT §

SUBSCRIBED AND SWORN TO before me this 8 day of January, 2010.



Orencia Johnson  
Notary Public, State of Texas

**Engineering Services Agreement  
University Estates – Waterline Rehabilitation  
Project No. 5999**

**Exhibit E – Page 1**



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/08/2010		
Department:		Public Works Administration / David Falls		
Department Head		Alan Upchurch		
Agenda Coordinator (include phone #): <b>Margie Stephens (X4104)</b>				
<b>CAPTION</b>				
<i>To Hencie International, Inc., increasing the contract by \$44,937.50 for the 2008 - 2009 Arterial Concrete Pavement Rehabilitation Project, Los Rios Blvd and Jupiter Rd, Project No. 5979, Change Order No. 1, Bid No. 2009-117-B.</i>				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: <b>2009-10</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	2,129,912	4,484,088	2,300,000	<b>8,914,000</b>
Encumbered/Expended Amount	-2,129,912	-1,738,204	0	<b>-3,868,116</b>
This Item	0	-44,938	0	<b>-44,938</b>
BALANCE	0	2,700,946	2,300,000	<b>5,000,946</b>
<b>FUND(S):</b> CAPITAL RESERVE				
<b>COMMENTS:</b> Funds are included in the Capital Reserve Fund. This change order, in the amount of \$44,938, will leave a current year balance of \$2,700,946 for the Arterial Concrete Repair project. <b>STRATEGIC PLAN GOAL:</b> Street pavement repairs relate to the City's Goal of Financially Strong City with Service Excellence.				
<b>SUMMARY OF ITEM</b>				
This change order is for additional concrete street pavement repairs on Jupiter Rd. As the contract progressed, additional arterial pavement was found that needed repair on Jupiter Rd between Park Blvd and Summit Dr.				
Staff recommends approval of Change Order No. 1. The total Contract will be \$313,187.50, which is a 16.75% increase of the original contract amount of \$268,250.00.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Change Order No. 1				

**CHANGE ORDER NO. 1**

**2008-09 ARTERIAL CONCRETE PAVEMENT REHAB  
LOS RIOS BLVD & JUPITER ROAD  
PROJECT NO. 5979  
PURCHASE ORDER NO. 103710  
CIP NO. 35 - 51130  
BID NO. 209-117-B**

**A. INTENT OF CHANGE ORDER**

The intent of this change order is to modify the provisions of the contract entered into by the **CITY OF PLANO, TEXAS**, and **HENCIE INTERNATIONAL, INC.** for the **2008-09 ARTERIAL CONCRETE PAVEMENT REHAB, LOS RIOS AND JUPITER ROAD PROJECT**, dated June 8, 2009.

**B. DESCRIPTION OF CHANGE**

The change order is for additional concrete pavement repair. As work progressed on Jupiter Road additional areas of pavement deterioration were found and needed to be repaired.

**C. EFFECT OF CHANGE**

This change order will have the following effect on the cost of this project:

<i>ITEM NO</i>	<i>ITEM DESCRIPTION</i>	<i>ORIGINAL QUANTITY</i>	<i>REVISED QUANTITY</i>	<i>UNIT</i>	<i>UNIT PRICE</i>	<i>AMOUNT OF CHANGE</i>
100	F/I Full Depth Saw Cut	10,000	12,500	LF	\$1.40	\$3,500.00
101	F/I Longitudinal & Transverse BJ	10,000	12,500	LF	\$1.50	\$3,750.00
102	R/R Existing Concrete Pavement	4,100	4,850	SY	\$7.00	\$5,250.00
103	F/I Reinf Concrete Pavement	4,100	4,850	SY	\$43.25	\$32,437.50
<b>TOTAL:</b>						<b>\$44,937.50</b>

Original Contract Amount	<u>\$ 268,250.00</u>
Contract Amount (Including Previous Change Orders)	<u>\$ 268,250.00</u>
<b>Amount, Change Order No. 1</b>	<b><u>\$ 44,937.50</u></b>
<b>Revised Contract Amount</b>	<b><u>\$ 313,187.50</u></b>
<b>Total Percent Increase Including Previous Change Orders</b>	<b><u>16.75%</u></b>

**D. EFFECT OF CHANGE ON CONTRACT TIME**

The work required under this change order will add 20 day(s) to this project:

Original Contract Time	<u>120 working days</u>
Amount (Including Previous Change Orders)	<u>120 working days</u>
<b>Amount, Change Order No. 1</b>	<u>20 working days</u>
<b>Revised Contract Time</b>	<u>140 working days</u>
<b>Total Percent Increase Including Previous Change Orders</b>	<u>16.67%</u>

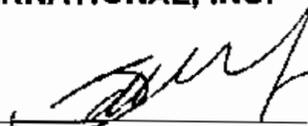
**E. AGREEMENT**

By the signatures below, duly authorized agents of the **CITY OF PLANO, TEXAS**, and **HENCIE INTERNATIONAL, INC.**, do hereby agree to append this Change Order No. 1 to the original contract between themselves, dated June 8, 20009.

**OWNER: CITY OF PLANO**

**CONTRACTOR: HENCIE INTERNATIONAL, INC.**

By: \_\_\_\_\_  
(signature)

By:   
\_\_\_\_\_  
(signature)

Print  
Name: Thomas H. Muehlenbeck

Print  
Name: Sabeel Fatehdin

Print  
Title: City Manager

Print  
Title: Vice President

Date: \_\_\_\_\_

Date: 11/01/10

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Diane C. Wetherbee, City Attorney

**ACKNOWLEDGMENTS**

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

This instrument was acknowledged before me on the 10 day of January, 2010, by **SABEEL FATEHDIN, VICE PRESIDENT** of **HENCIE INTERNATIONAL, INC.**, a **TEXAS** corporation, on behalf of said corporation.



*[Signature]*  
\_\_\_\_\_  
Notary Public, State of Texas

STATE OF TEXAS       §  
                                  §  
COUNTY OF COLLIN   §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, by **THOMAS H. MUEHLENBECK, CITY MANAGER** of the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

\_\_\_\_\_  
Notary Public, State of Texas



## CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/8/10		
Department:		Parks and Recreation		
Department Head		Amy Fortenberry		
Agenda Coordinator (include phone #): <b>Susan Berger (7255)</b>				
<b>CAPTION</b>				
<p>A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a Real Estate Contract by and between the Trammel Crow Company No. 43, LTD., and the City of Plano for the purchase of approximately 7.005 acres of land located west of Midway Road and south of McKamy Trail immediately adjacent to the existing Sunset Park in Plano, Collin County, Texas; authorizing the City Manager or designee to execute such contract; and providing an effective date.</p>				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR:	<b>2009-10</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>
				<b>TOTALS</b>
Budget		0	985,000	0
Encumbered/Expended Amount		0	0	0
This Item		0	-813,439	0
BALANCE		0	171,561	0
<b>FUND(S):    PARK FEE PROGRAM</b>				
<p><b>COMMENTS:</b> Funds are included in the 2009-10 Park Fee Program. This item, in the amount of \$813,439, will leave a current year balance of \$171,561, for the Sunset Park project.</p> <p><b>STRATEGIC PLAN GOAL:</b> Park land purchases relate to the City's Goal of Premier City in Which to Live.</p>				
<b>SUMMARY OF ITEM</b>				
<p>Approval of an expenditure of \$5.25 per square foot for approximately 3.194 acres of property not encumbered by a power line easement (\$730,435.86) and \$0.50 per square foot for the approximately 3.811 acres of the property within the power line easement (\$83,003.58) for total a expenditure of \$813,439.44. The final amount of encumbered and unencumbered square footage will be determined by the final survey prepared before closing.</p> <p>The purpose of the acquisition is for an addition to the existing 8.21 acre Sunset Park. If this acquisition is approved the total acreage of the park will be 15.215 acres. Parking at Sunset Park is limited to on-street parking along McKamy Trail which causes congestion on the street and limits access to the park. Ideally most neighborhood parks will have streets available for parking on at least 2 sides. This addition to the park will provide space for off-street parking as well as an additional practice soccer/baseball field area. This acquisition will also provide a link for a future trail connection under the power lines to The Colony.</p>				



## CITY OF PLANO COUNCIL AGENDA ITEM

This acquisition is identified in the Comprehensive Plan as part of the Park Master Plan. Funding for this acquisition is available through the Park Fee Program and does not require a General Fund expenditure or a bond sale. This acquisition will not require any additional maintenance resources until it is developed. The development schedule will depend on budget conditions.

List of Supporting Documents:

Location Map

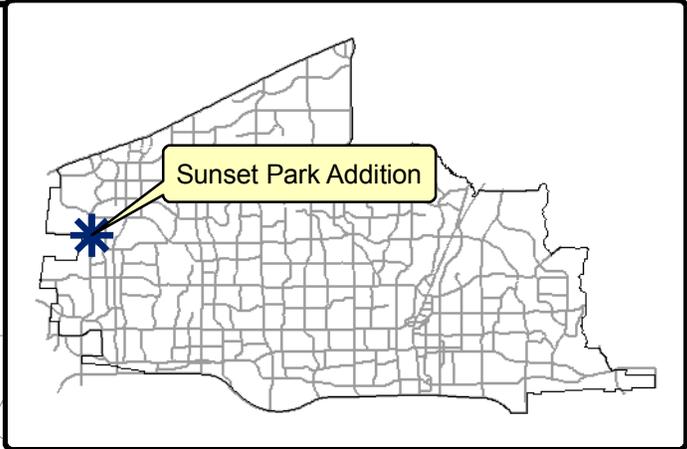
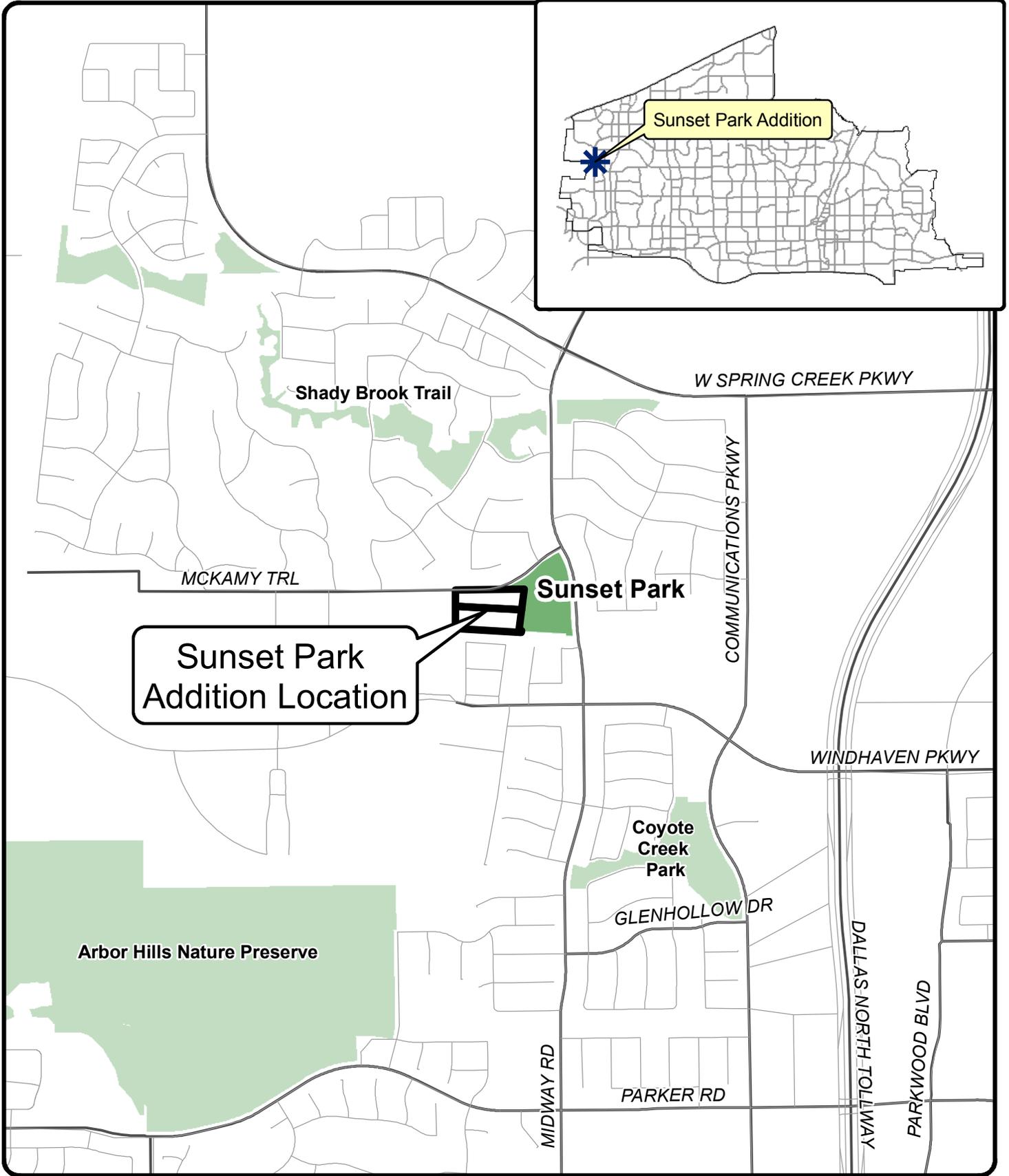
Contract

Other Departments, Boards, Commissions or Agencies



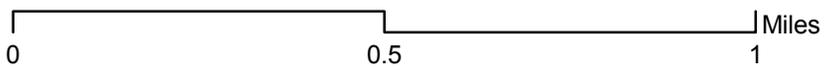
# Location Map

## Sunset Park Addition



Sunset Park  
Addition Location

Sunset Park Addition



**A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a Real Estate Contract by and between the Trammel Crow Company No. 43, LTD., and the City of Plano for the purchase of approximately 7.005 acres of land located west of Midway Road and south of McKamy Trail immediately adjacent to the existing Sunset Park in Plano, Collin County, Texas; authorizing the City Manager or designee to execute such contract; and providing an effective date.**

**WHEREAS**, the City Council has been presented a proposed Real Estate Contract by and between the City of Plano and the Trammel Crow Company No. 43, LTD. for the purchase of property located west of Midway Road and south of McKamy Trail immediately adjacent to the existing Sunset Park in Plano, Collin County, Texas, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Real Estate Contract"); and

**WHEREAS**, upon full review and consideration of the Real Estate Contract, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or his authorized designee, shall be authorized to execute it on behalf of the City of Plano.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The terms and conditions of the Real Estate Contract, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interest of the City of Plano and its citizens, are hereby in all things approved.

**Section II.** The City Manager or his designee is hereby authorized to execute the Real Estate Contract and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Real Estate Contract.

**Section III.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the 8<sup>th</sup> day of February, 2010.

\_\_\_\_\_  
Phil Dyer, MAYOR

ATTEST:

\_\_\_\_\_  
DIANE ZUCCO, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

## REAL ESTATE CONTRACT

**THIS REAL ESTATE CONTRACT** ("Contract") is made and entered into by and between the **TRAMMEL CROW COMPANY NO. 43, LTD.**, a Texas limited partnership and **BILLINGSLEY TRUST JV**, a Texas general partnership ("Sellers") and **THE CITY OF PLANO, TEXAS**, a home rule municipality ("Purchaser").

### ARTICLE 1

#### Sale and Purchase

Section 1.1 Subject to the terms and provisions hereof, the Seller agrees to sell to the Purchaser, and the Purchaser agrees to purchase from the Seller, that certain real property containing approximately 7.005 acres or 305,137.8 square feet of land, shown as Parcels A and B on Exhibit "A" attached hereto and incorporated herein for all purposes together with, all and singular, all of Seller's right, title and interest in and to all improvements thereon and all rights and appurtenances pertaining thereto, such interest in real estate, improvements, rights and appurtenances being herein referred to individually and collectively as the "Property." The Property is located within the city limits of the City of Plano and is out of a larger 7.5409 acre tract described in the Collin County Appraisal District Records as Account Number 2620762. Purchaser is a Texas home rule municipality with the power of condemnation. By agreement of Purchaser and Seller, the Property will be conveyed to Purchaser hereunder in lieu of condemnation.

### ARTICLE 2

#### Consideration for Conveyance

Section 2.1 The purchase price ("Purchase Price") for the Property shall be payable in cash at closing and shall be based on a price of \$5.25 per square foot for the approximately 3.194 acres of the Property not encumbered by a power line easement and \$0.50 per square foot for the approximately 3.811 acres of the Property within the power line easement. The final amount of encumbered and unencumbered square footage shall be determined by the Survey to be prepared in accordance with Section 4.1 below.

## ARTICLE 3

### Earnest Money

#### Section 3.1

(a) As a condition precedent to sustaining this Contract, Purchaser shall have ten (10) business days after execution of this Contract by the parties to deliver a check in the amount of **ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00)** to the Title Company (hereinafter defined) as earnest money ("Earnest Money").

(b) In the event this Contract is closed, the Earnest Money shall be applied to the Purchase Price at Closing. In the event this Contract is not closed, then the Title Company shall disburse the Earnest Money in the manner provided for elsewhere herein.

## ARTICLE 4

### Survey and Title Policy

Section 4.1 Within fifteen (15) days from the Effective Date of this Contract, the Seller, at Seller's sole cost and expense, shall deliver or cause to be delivered to Purchaser a current boundary survey ("Survey") of the Property, containing a metes and bounds description of the Property. The Survey shall be sufficient to permit the Title Company, at Purchaser's sole cost and expense to modify the standard printed exception in the Owner Policy of Title Insurance pertaining to discrepancies in area or boundary lines, encroachments, overlapping of improvements, or similar matters (herein called the "Survey Exception"). The Survey shall indicate the location of all improvements on the Property, if any. Further, the Survey shall indicate the location of all title exceptions which can be located thereon. The Survey shall be performed by Michael Cummings with C&P Engineering, Ltd. In the event Purchaser elects to have such Survey performed prior to execution of this Contract, or at any time before delivery of such Survey is required by Seller, then Purchaser shall be entitled to receive reimbursement for the amount of such Survey at Closing. The survey shall also show the total number of square feet within the power line easement. Notwithstanding anything to the contrary contained herein, if Seller provides the Survey to Purchaser and Purchaser fails to consummate the Closing of the transaction contemplated hereby for any reason (other than a Seller default), Purchaser shall reimburse Seller for all reasonable costs incurred by Seller in connection with the survey.

Section 4.2 Within fifteen (15) days from the Effective Date of this Contract, the Seller, at the Seller's sole cost and expense, shall furnish to the

Purchaser a current commitment ("Title Commitment") for the issuance of an Owner's Policy of Title Insurance to the Purchaser from Republic Title of Texas, Inc., 2626 Howell Street, 10<sup>th</sup> Floor, Dallas, Texas 75204-4064, Attn: Mr. Mel Morgan ("Title Company"), together with legible copies of all documents constituting exceptions to Seller's title as reflected in the Title Commitment. Purchaser shall have a period of twenty (20) days from the delivery of the last of the Survey or the Title Commitment and the documents referred to therein as conditions or exceptions to title to the Property, in which to review such items and to deliver to Seller in writing such reasonable objections as Purchaser may have to anything contained or set forth in the Title Commitment or title exception documents. Any items to which Purchaser does not object within such period shall be deemed to be permitted exceptions ("Permitted Exceptions"). In the event Purchaser timely objects to any matter contained in the Survey or the Title Commitment and/or title exception documents as hereinabove provided, Seller shall have a reasonable period of time, not to exceed forty-five (45) days, after receipt of Purchaser's objections within which Seller may attempt to cure such objections specified as aforesaid by Purchaser and the Closing Date shall be extended, if necessary, provided, however, Seller shall be under no obligation to incur any costs whatsoever in connection with such cure. In the event Seller has been unable or unwilling to cure any such objections as aforesaid within such reasonable period of time, not to exceed forty-five (45) days, then, and in such event, Purchaser may, at its option, either terminate this Contract (whereupon the Earnest Money shall be immediately returned to the Purchaser by the Title Company) or Purchaser may waive any such objection and the transaction contemplated hereby shall be consummated as provided herein, in which case all such objections shall become additional "Permitted Exceptions" for all purposes hereunder.

Section 4.3 At Closing, the Seller shall furnish the Purchaser, at the Seller's sole cost and expense with an Owner Policy of Title Insurance issued by the Title Company on the standard form in use in the State of Texas, insuring good and indefeasible title to the Property in the Purchaser in the amount of the Purchase Price, subject only to the Permitted Exceptions and the standard printed exceptions, except:

(a) The exception relating to restrictions against the Property shall be endorsed by the Title Company to read "none of record", except for such restrictions as may be included in the Permitted Exceptions;

(b) The exception relating to ad valorem taxes shall except only to taxes owing for the current and subsequent years and subsequent assessments for prior years due to change in land use or ownership;

(c) There shall be no general exception for "parties in possession";  
and

(d) There shall be no exception for any lien, for service, labor or material heretofore or hereafter provided imposed by law and not shown by the public records.

Section 4.4. Any and all endorsements or modifications (including, without limitation, modification of the Survey Exception) to the Owner Policy of Title Insurance shall be at Purchaser's sole cost and expense.

## ARTICLE 5

### **Condemnation, Assessments and Risk of Loss**

Section 5.1 In the event that prior to the date of Closing condemnation procedures are commenced by any governmental entity or authority other than Purchaser or other entity acting by, through or under Purchaser, against a portion or all of the Property or Seller receives any verbal or written notice of a threat or intent of condemnation of a portion or all of the Property by any governmental entity or authority other than Purchaser or other entity acting by, through or under Purchaser, Seller shall immediately notify Purchaser and Purchaser may, at its election, terminate this Contract by written notice to Seller within ten (10) business days after receipt of Seller's notice. Neither party shall have any further rights or obligations hereunder and the Title Company shall return the Earnest Money to the Purchaser, and neither Purchaser nor Seller shall have any further right or obligation hereunder except as set forth herein. Should Purchaser elect not to exercise its option as provided hereunder, then the Contract shall remain in full force and effect and Seller shall assign or pay to Purchaser at Closing Seller's interest in and to all condemnation awards or proceeds from any such proceedings or actions in lieu thereof. Prior to Closing, all risks of loss shall be upon the Seller.

## ARTICLE 6

### **Closing**

Section 6.1 The Closing hereunder shall take place at the offices of the Title Company. The date of Closing ("Closing Date") shall be on or before sixty (60) days after the Effective Date of this Contract or on such earlier date as may be mutually agreed.

Section 6.2 At the Closing, Seller shall deliver or cause to be delivered to Purchaser each of the following items:

(a) A Special Warranty Deed (the "Deed") duly executed and acknowledged by Seller, and in form for recording, conveying good, indefeasible title in the Property to Purchaser, subject only to the Permitted Exceptions.

(b) At Seller's expense, the Owner's Title Policy (or a Pro Forma Owner's Title Policy) in the form specified in Section 4.3 hereof.

(c) All additional documents and instruments as in the opinion of the Seller's and Purchaser's counsel are reasonably necessary to the proper consummation of this transaction.

Section 6.3 At the Closing, Purchaser, at Purchaser's sole cost and expense shall deliver to Seller the following items:

(a) The Purchase Price in cash as required by Article 2 hereof;

(b) Such evidence or documents as may reasonably be required by the Seller or the Title Company evidencing the status and capacity of Purchaser and the authority of the person or persons who are executing the various documents on behalf of the Purchaser in connection with the sale of the Property; and

(c) All additional documents and instruments as in the opinion of the Seller's and Purchaser's counsel are reasonably necessary to the proper consummation of this transaction.

Section 6.4 All ad valorem taxes shall be pro-rated to date of closing. Purchaser shall be responsible for all ad valorem taxes, if any, affecting the Property after the date of Closing.

Section 6.5 Possession of the Property shall be delivered to Purchaser by Seller at the Closing, subject only to the Permitted Exceptions and such rights of others as have been expressly disclosed herein.

Section 6.6 Except as otherwise provided herein, all costs and expenses in connection with the transaction contemplated by this Contract shall be borne by Purchaser, except each party will pay its own legal fees.

## ARTICLE 7

### Real Estate Commission

Each party hereto represents and warrants to the other party that it has not employed any broker or finder in connection with the transaction contemplated by this Contract. Each party hereto agrees to reimburse the other party for any loss, liability, damage, cost, or expense (including, but not limited



P. O. Box 860358  
Plano, TX 75086-0358

With copy to: City of Plano, Texas  
Attention: City Attorney  
1520 Avenue K  
P. O. Box 860358  
Plano, TX 75086-0358

If to the Purchaser: Trammell Crow Company #43 Et Al  
Attention: Henry Billingsley  
4100 International Pkwy Suite 1100  
Carrollton, TX 75007

or to such other address or to the attention of such other person as hereafter shall be designated in writing by the applicable party sent in accordance herewith. Any such notice or communication shall be deemed to have been given either at the time of personal delivery or, in the case of delivery service or certified or registered mail, as of the date of deposit or delivery to the United States Mail or expedited delivery service in the manner provided herein, or in the case of telegram or telex, upon receipt. Any notice required by this Contract or in any way related to the transaction contracted for herein, shall be void and of no effect unless given in accordance with the provisions of this Article 9. Either party hereto may change the address for notice specified above by giving the other party ten (10) days advance written notice of such change of address.

Section 9.2 For purposes of determining the time for performance of various obligations under this Contract, the Effective Date of this Contract shall be the later of the dates this Contract is executed by Seller or Purchaser.

Section 9.3 Except as otherwise provided herein, any representation, warranty, covenant or agreement of either party to this Contract whether to be performed before or after the time of Closing shall not survive the Closing, but rather shall be deemed to be merged into and waived by the instruments of Closing.

Section 9.4 This Contract shall be binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, and permitted successors and assigns. The rights of Purchaser under this Contract are not assignable without the prior written consent of Seller, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, the rights of Purchaser hereunder shall be assignable by Purchaser to any entity which is owned or controlled by Purchaser without the necessity of obtaining Seller's prior written

consent, so long as such assignee assumes all of Purchaser's obligations hereunder.

Section 9.5 The obligations of the parties hereto are and shall be performable in Collin County, Texas. This Contract shall be construed and interpreted in accordance with the laws of the State of Texas. Where required for proper interpretation, words in the singular shall include the plural; the masculine gender shall include the neuter and the feminine, and vice versa. The terms "heirs, executors, administrators and assigns" shall include "successors, legal representatives and assigns."

Section 9.6 This Contract may not be modified or amended, except by an agreement in writing signed by the Seller and the Purchaser. The parties may waive any of the conditions contained herein or any of the obligations of the other party hereunder, except as elsewhere provided for herein, but any such waiver shall be effective only if in writing and signed by the party waiving such conditions or obligations.

Section 9.7 Each person executing this Contract warrants and represents that he is fully authorized to do so.

Section 9.8 Time is of the essence of this Contract.

Section 9.9 In the event it becomes necessary for either party hereto to file a suit to enforce this Contract or any provisions contained herein, the party prevailing in such action shall be entitled to recover, in addition to all other remedies or damages, reasonable attorneys' fees incurred in such suit.

Section 9.10 The descriptive headings of the several Articles, Sections and Paragraphs contained in this Contract are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

Section 9.11 This Contract, including the Exhibits hereto, constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the parties in connection therewith. No representation, warranty, covenant, agreement or condition not expressed in this Contract shall be binding upon the parties hereto or shall affect or be effective to interpret, change or restrict the provisions of this Contract.

Section 9.12 Should the calculation of any of the various time periods provided for herein result in an obligation becoming due on a Saturday, Sunday or legal holiday, then the due date of such obligation or scheduled time of occurrence of such event shall be delayed until the next business day.

Section 9.13 Seller and Purchaser hereby acknowledge that neither this Contract nor any memorandum or affidavit thereof shall be recorded of public record in Collin County, Texas or any other county in Texas. Should Purchaser ever record or attempt to record this Contract, or a memorandum or affidavit thereof, or any other similar document, then, notwithstanding anything herein to the contrary, said recordation or attempt at recordation shall constitute a default by Purchaser hereunder, and, in addition to the other remedies provided for herein, Seller shall have the express right to terminate this Contract by filing a notice of said termination in the proper place for said filing.

Section 9.14 Numerous copies of this Contract have been executed by the parties hereto. Each such executed copy shall have the full force and effect of an original executed instrument.

Section 9.15 AS A MATERIAL PART OF THE CONSIDERATION FOR THIS CONTRACT, SELLER AND PURCHASER AGREE THAT PURCHASER IS TAKING THE PROPERTY "AS IS", "WHERE IS" AND "WITH ALL FAULTS" AND WITH ANY AND ALL LATENT AND PATENT DEFECTS (INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL CONDITONS, AND DEFECTS) AND THAT THERE IS NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OF AN KIND OR NATURE (INCLUDING, WITHOUT LIMITATION, WARRANTIES WITH RESPECT TO HABITABILITY, MARKETABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ENVIRONMENTAL OR ANY OTHER CONDITION OF THE PROPERTY) MADE BY SELLER WITH RESPECT TO THE PROPERTY. ALL REPRESENTATIONS AND WARRANTIES, BOTH EXPRESS AND IMPLIED, ARE HEREBY EXPRESSLY DISCLAIMED AND DENIED. SELLER AND PURCHASER ACKNOWLEDGE THAT PURCHASER HAS BEEN OR WILL BE GIVEN ADEQUATE TIME TO CONDUCT WHATEVER EXAMINATION, EVALUATIONS, INSPECTIONS, REVIEWS, STUDIES OR TESTS OF THE PROPERTY AND ITS CONDITION (INCLUDING ENVIRONMENTAL CONDITION) AS PURCHASER MAY DESIRE OR DETERMINE WARRANTED, AND THAT PURCHASER IS NOT RELYING ON ANY REPRESENTATION, WARRANTY, STATEMENT OR OTHER ASSERTION WITH RESPECT TO THE PROPERTY OR ITS CONDITION (INCLUDING ENVIRONMENTAL CONDITIONS) BY SELLER OR ANY OF ITS AGENTS, BUT IS RELYING SOLELY ON ITS OWN EXAMINATION, EVALUATIONS, INSPECTIONS, REVIEWS, STUDIES OR TEST OF THE PROPERTY. PURCHASER TAKES THE PROPERTY UNDER THE EXPRESS UNDERSTANDING THAT THERE ARE NO EXPRESS OR IMPLIED

WARRANTIES INCLUDING BUT NOT LIMITED TO THOSE OF HABITABILITY, MERCHANTABILITY, MARKETABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ENVIRONMENTAL OR ANY OTHER CONDITION. The provisions of this Section 9.15 shall survive the Closing and the delivery of the deed and any other instruments of Closing.

**EXECUTED** on this the \_\_\_\_\_ day of \_\_\_\_\_, 2010, by Seller.

**CITY OF PLANO, TEXAS**

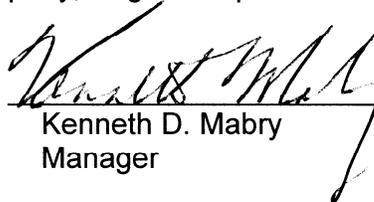
BY: \_\_\_\_\_  
Thomas H. Muehlenbeck  
CITY MANAGER

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

**TRAMMELL CROW COMPANY No. 43 LTD.,**  
a Texas limited partnership

BY: Henry GP, LLC., a Texas limited liability company, its general partner

BY:  \_\_\_\_\_  
Kenneth D. Mabry  
Manager

**BILLINGSLEY TRUST JV**, a Texas general partnership

BY:   
Kenneth D. Mabry  
Assistant Partnership Manager



This Contract, together with the Purchaser's Earnest Money, has been received by the Title Company this the \_\_\_\_ day of \_\_\_\_\_, 2010, and by execution hereof the Title Company hereby covenants and agrees to be bound by the terms of this Contract.

**REPUBLIC TITLE COMPANY**

By: \_\_\_\_\_

# EXHBIIT "A"

## The Property

Park Planning Division  
City of Plano, Texas

### SUNSET PARK VICINITY

A + B = 7.005 Acres



200 100 0 200 Feet





**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/08/10		
Department:		Public Safety Services & Technology Business Center		
Department Head		Bruce Glasscock		
Agenda Coordinator (include phone #): <b>Dee Dee Falls ext. 7747</b>				
<b>CAPTION</b>				
A Resolution of the City Council of the City of Plano, Texas, providing for the creation of the Plano Photographic Traffic Signal Advisory Committee; providing for appointment and terms of office for members and officers; providing rules and guidelines under which the Committee will function; and providing an effective date.				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
<b>FUND(S):</b>				
<b>COMMENTS:</b> This item has no fiscal impact.				
<b>SUMMARY OF ITEM</b>				
This Resolution establishes The Plano Photographic Traffic Signal Advisory Committee (PPTSAC). This committee is being established to advise the Plano City Council on the installation and operation of a photographic traffic signal enforcement system established pursuant to Chapter 707 of the Texas Transportation Code.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
n/a		n/a		

**A Resolution of the City Council of the City of Plano, Texas, providing for the creation of the Plano Photographic Traffic Signal Advisory Committee; providing for appointment and terms of office for members and officers; providing rules and guidelines under which the Committee will function; and providing an effective date.**

**WHEREAS**, the City of Plano has adopted a Photographic Traffic Signal Enforcement System; and

**WHEREAS**, Section 707.003 of the Texas Transportation Code requires a local authority to create a citizen advisory committee to review the results of photographic traffic signal engineering studies for newly selected intersection approaches; and

**WHEREAS**, the Council finds that it is likely that additional intersections will be identified for future photographic traffic signal enforcement, thereby requiring a need for a citizen advisory committee.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I. Purpose.** The Plano Photographic Traffic Signal Advisory Committee (PPTSAC) is hereby established to advise the Plano City Council on the installation and operation of a photographic traffic signal enforcement system established pursuant to Chapter 707 of the Texas Transportation Code. The duties are limited to advising the City Council in the following areas: receiving the results of traffic studies conducted to determine the appropriateness of photographic traffic signal enforcement at newly selected intersection approaches in the City and providing comments to the same; review and comment on the annual report that is required by section 707.004(d); and, to advise the City Council on other matters related to the installation and operation of a photographic traffic signal enforcement system which from time to time may be referred by the City Council to the Committee for its consideration.

**Section II. Membership.** The PPTSAC shall consist of eight (8) members. Each member of the Plano City Council shall appoint one (1) member to PPTSAC. PPTSAC members must reside in the City of Plano. For the initial term, three (3) of the members shall serve a three-year (3) term; three (3) shall serve a two year term; and two (2) shall serve a one year term. After the initial term, all PPTSAC members shall serve two-year (2) terms. All members may be reappointed for one (1) additional term. Terms shall expire on October 31 of each year. All members shall serve without compensation.

**Section III. Officers.** A Chairperson and Vice-Chairperson shall be appointed by the Mayor annually. The Chairperson's duties are to run the meeting, ensure that an accurate record is kept of the meeting, and be primarily responsible for the reports made to the City Council. The Vice-Chairperson shall assist the Chairperson as needed and fulfill all obligations of the Chairperson in his or her absence.

**Section IV. Meetings; Quorum.** The PPTSAC shall meet as needed but not less than one time a year. Five (5) members shall constitute a quorum. A vote of the simple majority of the quorum shall be required for any action taken by the PPTSAC.

**Section V. Removal; Dissolution.** All members of the PTSSAC are subject to removal in accordance with the City Council's current policy with regard to required attendance at City board, commission, and committee meetings. Members may be removed at any time, with or without cause, by the City Council Place Member that appointed the PPTSAC member.

The City Council has the unilateral right to change and/or add to the duties of the PPTSAC, and may dissolve it at any time.

**Section VI.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the 8th day of February, 2010.

---

Phil Dyer, MAYOR

ATTEST:

---

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

---

Diane C. Wetherbee, CITY ATTORNEY



## CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/08/10		
Department:		Public Safety Services & Technology Business Center		
Department Head		Bruce Glasscock		
Agenda Coordinator (include phone #): <b>Dee Dee Falls ext. 7747</b>				
<b>CAPTION</b>				
<p>A Resolution of the City Council of the City of Plano, Texas, repealing Resolution No. 2002-9-25(R), Resolution No. 2008-2-7(R) and Resolution No. 2008-7-16(R) with regard to the Multi-Cultural Outreach Roundtable ("Roundtable") and adopting a new resolution to re-establish the Roundtable setting forth its purpose, appointment of a Chair and Vice-Chairs, establishing duties and meeting guidelines, and providing for open participation to the Roundtable; and providing an effective date.</p>				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
<b>BALANCE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>FUND(S):</b>				
<b>COMMENTS:</b> This item has no fiscal impact.				
<b>SUMMARY OF ITEM</b>				
<p>This Resolution repeals Resolution No. 2002-9-25(R), Resolution No. 2008-2-7(R) and Resolution No. 2008-7-16(R) with regard to the Multi-Cultural Outreach Roundtable ("Roundtable") and adopts a new resolution to re-establish the Roundtable</p>				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
n/a		n/a		

**A Resolution of the City Council of the City of Plano, Texas, repealing Resolution No. 2002-9-25(R), Resolution No. 2008-2-7(R) and Resolution No. 2008-7-16(R) with regard to the Multi-Cultural Outreach Roundtable (“Roundtable”) and adopting a new resolution to re-establish the Roundtable setting forth its purpose, appointment of a Chair and Vice-Chairs, establishing duties and meeting guidelines, and providing for open participation to the Roundtable; and providing an effective date.**

**WHEREAS**, the City Council passed Resolution No. 2002-9-25(R) on September 23, 2002 establishing the Multi-Cultural Outreach Roundtable (“Roundtable”) to ascertain the needs and desires of the community as can be met by local government as well as to enable persons from the City’s diverse cultures to be active participants in our governance process and to set rules for its governance; and

**WHEREAS**, the City Council passed Resolution No. 2008-2-7(R) on February 11, 2008 to expand the Mayor’s ability to appoint Co-Chairs and to clarify the role of the Co-Chairs of the Roundtable; and

**WHEREAS**, the City Council passed Resolution No. 2008-7-16(R) on July 28, 2008 to allow the Roundtable to meet for purposes of setting future agendas, gathering and evaluating information for future programs and meetings, including committee meetings without posting that meeting; and

**WHEREAS**, the City Council wishes to repeal Resolution Nos. 2002-9-25(R), 2008-2-7(R) and 2008-7-16(R) and adopt a new resolution to re-establish the Roundtable, setting forth its purpose, appointment of a Chair and up to four (4) Vice-Chairs, and establishing the duties, meeting guidelines and membership to the Roundtable.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The City Council hereby repeals Resolution Nos. 2002-9-25(R), 2008-2-7(R) and 2008-7-16(R) in their entirety.

**Section II.** Establishment and Structure of Multi-Cultural Outreach Roundtable. The City Council re-establishes the Multi-Cultural Outreach Roundtable (“Roundtable”). The purpose of this Roundtable is to seek input and make recommendations to the City Council on methods, practices, programs and other means by which the City of Plano can effectively serve the entire community and meet the objectives of local government. These recommendations may include, but are not limited to, making suggestions on how to more effectively increase citizen participation in City activities, improve understanding of the public governance process, and adapt or add City programs or services that will promote community inclusiveness.

The Mayor shall appoint a Chair and up to four (4) Vice-Chairs to the Roundtable. There shall be no other fixed membership to the Roundtable. The Chair and Vice-Chairs must be residents of the City of Plano. The remaining participants do not need to be residents of the City

of Plano. The Chair's duties are to conduct the meeting, ensure that minutes are kept for the meeting, and be primarily responsible for the reports made to the City Council. The Vice-Chairs shall assist the Chair as needed, and any one of the Vice-Chairs may fulfill the obligations of the Chair in his or her absence. The Chair shall allow all those who wish to participate on the Roundtable an opportunity to do so. Other than the Chair and Vice-Chairs, the participants of the Roundtable are not required to apply for membership through the City.

Meetings. Meetings may be conducted by the Chair or one Vice-Chair. The Roundtable shall meet no less frequently than each quarter and the Chair shall provide reports to the City Council of its progress and recommendations.

The meetings of the Roundtable shall be open to the public at all times and the meetings shall be conducted in accordance with Resolution No. 2002-12-1(R). Because of the unique structure of the Roundtable and that topics for future discussion are generated from feedback received from other sources, setting the agenda's topics of discussion requires the Roundtable Chair and Vice-Chairs to confer and determine the topics to be included on future agendas in a manner that allows for flexibility. The Chair and Vice-Chairs of the Roundtable may meet at other times for the purposes of planning agendas, gathering and evaluating information for future programs and meetings, including committee meetings without complying with Resolution No. 2002-12-1(R).

The City Manager shall designate staff to support the Roundtable.

**Section III.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the 8th day of February, 2010.

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Phil Dyer, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2-8-2010		
Department:		Purchasing		
Department Head		Mike Ryan		
Agenda Coordinator (include phone #): <b>Nancy Corwin X7137</b>				
<b>CAPTION</b>				
A Resolution of the City Council of the City of Plano, Texas, approving an expenditure for repairs to grounding and surge protection at Ridgeview Pump Station; authorizing the execution of any and all documents by the City Manager or, his designee; and providing an effective date.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: <b>2009-10</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	450,000	450,000	<b>900,000</b>
Encumbered/Expended Amount	0	-3,680	0	<b>-3,680</b>
This Item	0	-68,233	0	<b>-68,233</b>
<b>BALANCE</b>	0	378,087	450,000	<b>828,087</b>
<b>FUND(S):</b> CAPITAL RESERVE				
<b>COMMENTS:</b> Funds are included in the 2009-10 Capital Reserve. This item, in the amount of \$68,233 will leave a current year balance of \$378,087 for the Pump Station Rehabilitation project. <b>STRATEGIC PLAN GOAL:</b> Pump station repairs relate to the City's Goal of Financially Strong City with Service Excellence.				
<b>SUMMARY OF ITEM</b>				
Staff recommends approval of Resolution for repairs and maintenance to include surge protection and grounding at the Ridgeview Pump Station to prevent motor failure in the estimated amount of sixty eight thousand two hundred thirty three and twenty five cents \$68,233.25 to Legacy Contracting L.P. Db a Control Specialist L.P. The repairs and maintenance are considered procurement necessary to preserve or protect the public health or safety of the municipality's residents falling under Section 252.22 LGC General Exemptions from the bid requirements.				
List of Supporting Documents: Resolution, Vendor Quote			Other Departments, Boards, Commissions or Agencies	

**A Resolution of the City Council of the City of Plano, Texas, approving an expenditure for repairs to grounding and surge protection at Ridgeview Pump Station; authorizing the execution of any and all documents by the City Manager or, his designee; and providing an effective date.**

**WHEREAS**, the Public Works department has determined that the grounding and surge protection at Ridgeview Pump Facilities is inadequate to the extent where motor failure is both likely and imminent; and

**WHEREAS**, the possibility of motor failure would require that the Ridgeview Pump Station be shut down to make repairs and such a shutdown would result in a loss of 50% pumping capacity from this pump station, severely impacting the City's ability to provide adequate water supplies until the motor repairs from lack of grounding and surge protection are completed; and

**WHEREAS**, summer is approaching which will place a heavy demand on the pump system and the City cannot afford to have the Ridgeview Pump Station shut down for repairs during periods of high demand; and

**WHEREAS**, providing a safe and consistent source of clean water is crucial to the public health and safety of the residents of Plano; and

**WHEREAS**, section 252.022(2) of the Local Government Code exempts from the competitive bid requirement "a procurement necessary to preserve or protect the public health or safety of the municipality's residents"; and

**WHEREAS**, Council is of the opinion that these repairs are necessary to preserve and protect the public health and safety and should be made immediately before the heavy demands of the summer pumping season; and

**WHEREAS**, Council has determined, based on all things considered, including the recommendations of staff, that this procurement is exempt from the competitive bid requirements in Capture 252 of the Local Government Code.

**WHEREAS**, upon full review and consideration of all matters attendant and related to the grounding and surge protection at the Ridgeview Pump Station such repairs should be approved, and that the City Manager, or his designee, should be authorized to execute any and all documents on behalf of the City of Plano.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The City Council hereby finds and determines that the approval of the repairs and maintenance to grounding and surge protection at the Ridgeview Pump Station by Legacy Contracting, L.P. dba Control Specialist Services, L.P. are in the best interest of the health and welfare of the citizens of Plano.

**Section II.** The City Manager, or his designee, is hereby authorized to execute any and all documents in connection therewith grounding and surge protection at the Ridgeview pump Station by Legacy Contracting, L.P. Db a Control Specialist Services, L.P. in the estimated amount of SIXTY EIGHT THOUSAND TWO HUNDRED THIRTY THREE AND TWENTY FIVE CENTS (\$68,233.25).

**Section III.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the 8<sup>th</sup> day of February, 2010.

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Phil Dyer, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY

RES-APPROVAL



# ESTIMATE

**Legacy Contracting, L.P.**  
**Db a Control Specialist Services, L.P.**  
 PO Box 1479  
 Decatur, TX 76234  
 940-626-1415 \* 940-626-1486 Fax  
[www.csi5.com](http://www.csi5.com)

**QUOTE NO.** 2009-12-16  
**DATE** December 16, 2009  
**QUOTE EXPIRES IN 30 DAYS**

**To** City of Plano  
 Attn: Robbie  
 Via Email: [robbiec@plano.gov](mailto:robbiec@plano.gov)

We are happy to provide an estimate of labor and material for installation of surge protection at Ridgeview Pump Station.

This is an estimate only.

1)	Surge protection for Ridgeview Material: SPD PV600 SPD SP200 \$1,125 each x 12 Labor: 2 Men, 3 days	\$ 6,062.00 13,500.00 2,640.00
2)	Bring in Square D to service (4) Benshaw soft starters and one Square D Labor (Parts extra if needed.)	6,425.00
3)	Grounding improvements for old Ridgeview. ✓ Saw cut drive core drill thru wall ✓ Drill, pump bases, install ground ✓ Replace concrete, seal joints ✓ Tunnel under side walk twice ✓ Install grounding material ✓ Terminations, connections and grounding ✓ Ground all motors Material: Labor: 4 men, 2 weeks	2,600.00 24,000.00
	<b>Total</b>	<b>\$55,227.00</b>
4)	2 <sup>nd</sup> phase improvements: Install SPD MVC WS 4160 Material: Labor: 2 men, 2 days	\$11,246.25 1,760.00
	<b>Total</b>	<b>\$13,006.25</b>

\$ 68,233.25

**EXCLUSIONS:**

Bypassing of station and/or operating of City Valves. To provide safe working conditions.

**If extra labor or materials not described above are required due to unforeseen problems the owner will be notified for approval before work is completed. This quote is good for 30 days from the date referenced above. We thank you for considering Control Specialist Services for your service needs.**

Please call if you have any questions.

Sincerely,  
Ray Reaves  
Assistant Manager



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		2/8/10		
Department:		Finance		
Department Head		Denise Tacke		
Agenda Coordinator (include phone #): <b>Katherine Crumbley - 7479</b>				
<b>CAPTION</b>				
A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an amendment to an agreement by and between Connecticut General Life Insurance Company and the City of Plano; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	<b>0</b>
Encumbered/Expended Amount	0	0	0	<b>0</b>
This Item	0	0	0	<b>0</b>
BALANCE	0	0	0	<b>0</b>
<b>FUND(S):</b>				
<b>COMMENTS:</b> Funds are not being allocated for this item as this amendment only modifies the periods of performance by one year.				
<b>SUMMARY OF ITEM</b>				
This is an amendment to the Economic Development Incentive Agreement between the City of Plano and Connecticut General Life Insurance Company modifying the periods of performance by one year.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Amended Economic Development Incentive Agreement				

**A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an amendment to an agreement by and between Connecticut General Life Insurance Company and the City of Plano; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.**

**WHEREAS**, the City Council has been presented a proposed Amendment to Economic Development Incentive Agreement between Connecticut General Life Insurance Company (“CIGNA”), and the City of Plano, a substantial copy of which is attached hereto as Exhibit “A” and incorporated herein by reference (hereinafter called “Amendment”); and,

**WHEREAS**, upon full review and consideration of the Amendment, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or his authorized designee shall be authorized to execute it on behalf of the City of Plano.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The terms and conditions of the Amendment, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved.

**Section II.** The City Manager or his authorized designee is hereby authorized to execute the Amendment and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Amendment.

**Section III.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the 8th day of February, 2010.

\_\_\_\_\_  
Phil Dyer, MAYOR

ATTEST:

\_\_\_\_\_  
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

**AMENDMENT TO  
ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT  
FOR CONNECTICUT GENERAL LIFE INSURANCE COMPANY**

THIS AMENDMENT ("Amendment") is entered into by and between the CITY OF PLANO, a Texas municipal corporation of Collin County, Texas (the "City"), acting by and through its duly authorized officers, and CONNECTICUT GENERAL LIFE INSURANCE COMPANY, a Connecticut Corporation ("CIGNA");

**RECITALS:**

WHEREAS, the Plano City Council adopted Resolution No. 2008-11-11(R) on November 10, 2008, approving that certain agreement titled "Economic Development Incentive Agreement" (the "Agreement"), and authorizing the City Manager to execute same by affixing his hand and the City Seal; and

WHEREAS, City and CIGNA have agreed to amend the Agreement as hereinafter set forth;

NOW THEREFORE, in consideration of the mutual covenants and obligations herein, the parties agree as follows:

1. Article II, is amended to read in its entirety as follows:

"The term of this Agreement shall begin on the Commencement Date and continue until December 31, 2020, unless sooner terminated as provided herein."

2. Article III, subsection (c) is amended to read in its entirety as follows:

"(c) Add business personalty to the Property that has a minimum initial taxable value of not less than Twelve Million Dollars (\$12,000,000.00) on or before December 31, 2010;".

3. Article III, subsection (d) is amended to read in its entirety as follows:

"(d) Retain, create or transfer one thousand sixty four (1,064) Job Equivalents to the Property on or before December 31, 2010;".

4. Article IV, Section 4.02 is amended in to read in its entirety as follows:

"4.02. **Grant Payments.** Except as otherwise indicated, payment by the City under this Agreement shall be made within thirty (30) days after the Company verifies to the City on the Initial Certification attached hereto as Exhibit "A" that the Company has met its obligations as set forth in Article III (a), (b), (c) and (d) above. **IN ORDER TO RECEIVE PAYMENT UNDER THIS AGREEMENT, COMPANY'S INITIAL CERTIFICATION VERIFYING**

**COMPLIANCE WITH ARTICLE III (A), (B), (C), AND (D) ABOVE MUST BE FILED WITH THE CITY ON OR BEFORE APRIL 1, 2011.**

5. Article IV, Section 4.03 is amended to read in its entirety as follows:

“4.03 **Refunds.** In the event the Company allows new Job Equivalents at the Property to fall below one thousand sixty four (1,064) Job Equivalents for one hundred eighty (180) consecutive days during the term of this Agreement, not the result of an Event of Force Majeure, the Company shall refund to City an amount equal to Seven Hundred and Fifty Dollars (\$750.00) for each Job Equivalent that falls below one thousand sixty four (1,064). For the purposes of determining whether the City is due a refund under this section, the Company’s Chief Financial Officer shall certify to the City by April 1, 2011 and by January 31 of each year thereafter during the term of this Agreement the actual number of Job Equivalents at the Property for the preceding calendar year using the Certificate Form attached hereto as Exhibit “B”. All refunds under this Agreement shall be due within thirty (30) days of written demand for payment. Notwithstanding the foregoing, the Company shall never be required to refund to the City, in the aggregate, any amount in excess of the total grant amount set forth in Section 4.01.”

6. Except as expressly amended by this Amendment, the Agreement remains in full force and effect as provided therein.

**EXECUTED** on the 8th day of February, 2010, by City, signing by and through its City Manager, duly authorized to execute same by Resolution No. \_\_\_\_\_(R) approved by the City Council on February 8, 2010.

ATTEST:

CITY OF PLANO:

\_\_\_\_\_  
DIANE ZUCCO  
City Secretary

\_\_\_\_\_  
THOMAS H. MUEHLENBECK  
City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, City Attorney

ATTEST:

CONNECTICUT GENERAL LIFE  
INSURANCE COMPANY, a Connecticut  
Corporation

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BY: \_\_\_\_\_  
Name:  
Title:



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/08/2010		
Department:		Sustainability and Environmental Services		
Department Head		Nancy Nevil		
Agenda Coordinator (include phone #): <b>Mysha Faithful x4130</b>				
<b>CAPTION</b>				
<p>A Resolution of the City Council of the City of Plano, Texas approving the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano, Texas and the North Central Texas Council of Governments providing terms and conditions for the funding of a Second Chance Swap and Reuse Event; authorizing its execution by the City Manager or, in his absence, his authorized designee and providing an effective date.</p>				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	09-10, 10-11	Prior Year (CIP Only)	Current Year	Future Years
		0	0	0
Budget		0	0	0
Encumbered/Expended Amount		0	0	0
This Item		0	28,394	0
BALANCE		0	28,394	0
<b>FUND(S):     SUSTAINABILITY &amp; ENVIRONMENTAL SERVICES, GRANT FUND</b>				
<p><b>COMMENTS:</b> The City of Plano has received funding in the amount of \$28,394 for expenditures to create and implement reuse and swap events in conjunction with Texas Recycles Day 2010, the expansion of Zero Waste activities at the Live Green Expo in 2010 and the creation of a Green Corps Youth internship program to support expansion of recycling opportunities.</p> <p><b>STRATEGIC PLAN GOAL:</b> Grants to fund the Second Chance Swap and Reuse Event relate to the City's Goal of "Financially Strong City with Service Excellence" and "Partnering for Community Benefit."</p>				
<b>SUMMARY OF ITEM</b>				
<p>Funds will cover costs for the creation and implementation of reuse and swap events in conjunction with Texas Recycles Day 2010, the expansion of Zero Waste activities at the Live Green Expo in 2010 and the creation of a Green Corps Youth internship program to support expansion of recycling opportunities for the residents of Plano and surrounding areas.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
NCTCOG Interlocal Agreement (EXHIBIT A)				



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

A large, empty rectangular box with a black border, intended for the agenda item content.

**A Resolution of the City Council of the City of Plano, Texas approving the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano, Texas and the North Central Texas Council of Governments providing terms and conditions for the funding of a Second Chance Swap and Reuse Event; authorizing its execution by the City Manager or, in his absence, his authorized designee and providing an effective date.**

**WHEREAS**, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes governmental entities to contract with each other to perform governmental functions and services under the terms thereof; and

**WHEREAS**, the City Council has been presented a proposed Interlocal Cooperation Agreement by and between the City of Plano, Texas and the North Central Council of Governments, providing terms and conditions for a Second Chance Swap and Reuse Event; a substantial copy of which is attached hereto as **Exhibit “A”** and incorporated herein by reference (hereinafter called “Agreement”); and

**WHEREAS**, the City has qualified to receive grant funding for this Program from NCTCOG and is of the opinion that utilizing such funding will help aid in the creation and implementation of reuse and swap events in conjunction with Texas Recycles Day 2010, the expansion of Zero Waste activities at the Live Green Expo in 2010 and the creation of a Green Corps Youth internship program to support expansion of recycling opportunities for the residents of Plano and surrounding areas; and

**WHEREAS**, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or, in his absence, his authorized designee, should be authorized to execute it on behalf of the City of Plano.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interest of the City of Plano and its citizens are hereby in all things approved.

**Section II.** The City Manager or, in his absence, his authorized designee, is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

**Section III.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** the 8th day of February 2010.

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Phil Dyer, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY

**NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS  
INTERLOCAL AGREEMENT FOR SOLID WASTE IMPLEMENTATION GRANT PROJECT**

This Interlocal Agreement is entered into by and between the parties named below. Neither the Texas Commission on Environmental Quality nor the State of Texas is a party to this Agreement.

**CONTRACTING PARTIES:**

The Funding Agency: **North Central Texas Council of Governments**  
Herein referred to as **“NCTCOG”**  
Funds Recipient: **City of Plano, Texas**  
Herein referred to as **“FUNDS RECIPIENT”**

**II. SERVICES TO BE PERFORMED:**

For the **Second Chance Swap and Reuse Events** project, the FUNDS RECIPIENT shall complete all work as specified or indicated in “Attachment A - Work Program and Schedule of Deliverables of FUNDS RECIPIENT.”

**III. FUNDING AMOUNT:**

The funding amount under this Interlocal Agreement is a minimum of: **\$28,394 (twenty eight thousand three hundred ninety four)**. The budget details are in Attachment C.

**IV. TERM OF CONTRACT:**

This Interlocal Agreement is effective **December 18, 2009** and shall terminate **June 30, 2011**. This Interlocal Agreement shall immediately terminate at the end of any state fiscal year for which the Texas Legislature fails to appropriate funds necessary to perform this agreement.

This Interlocal Agreement must be signed and executed **forty-five (45) days** from the effective date stated above.

In the event funding is not available, the parties further agree that NCTCOG has no further obligation to pay and FUNDS RECIPIENT has no further duty to perform under terms of this agreement.

**V. ADDITIONAL CONTRACT PROVISIONS:**

See Attachment C - Schedule for Reimbursement and Reporting, Attachment D - Special Provisions, and Attachment E - General Provisions.

**VI. ENTIRE CONTRACT:**

This Interlocal Agreement, including all Attachments, represents the entire contract between the contracting parties. Any changes or modifications to this Interlocal Agreement must be in writing. Funds for this subcontract are currently available from the Texas Solid Waste Disposal and Transportation Revenue Fee, as proscribed in Texas Health and Safety Code Chapter 361.014. Due to demands upon the source for funds necessary to protect the health and safety of the public, it is possible that the funds contained in the Municipal Solid Waste Disposal Account, as proscribed in Texas Health and Safety Code Chapter 361.014(d), will be depleted or reduced prior to completion of this Interlocal Agreement. The parties agree that all funding arranged under this Interlocal Agreement is subject to sufficient funds in the Municipal Solid Waste Disposal Account.

The NCTCOG has certified, and the FUNDS RECIPIENT certifies that each has the authority to perform the services contracted for by authority granted in “the Regional Planning Act of 1965,”

Texas Local Government Code, Chapter 391 and “The Interlocal Cooperation Act,” Texas Government Code, Chapter 791.

**COUNCIL OF GOVERNMENTS**

**North Central Texas Council of Governments**

Funding agency

\_\_\_\_\_  
Signature

Mike Eastland  
Name

Executive Director  
Title

\_\_\_\_\_  
Date

**PROJECT FUNDS RECIPIENT**

**City of Plano, Texas**

Local Government

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

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- PROJECT REPORT FORMS
- FINANCIAL REIMBURSEMENT FORMS
- Example of a RELEASE OF CLAIMS

## Attachment A. Work Program and Schedule of Deliverables

The following work program lists all of the major steps for the Plano Community Swap Events project. Because many of the tasks listed below will occur simultaneously, they are not listed in timeline order. Rather, the expected timeframe to accomplish each of the deliverables or activities is outlined with each major task.

1. **Execution of the Interlocal Agreement with NCTCOG** – December 2009
2. **Quarterly Status Reports on the progress of the grant project** (Education Coordinator)- every three months
3. **Initiation of Green Corps** (Education Coordinator)– December 2009 - January 2010
  - Promote internships through local high schools
  - Conduct informational meetings
  - Collect applications, perform interviews and select candidates
  - Obtain parent approval and sign contracts with interns
4. **Training and Development of Green Corps Interns** (Education Coordinator) – February 2010 - August 2010
  - Carbon Footprint Workshop for interns
  - Field trips to MRF, transfer station, landfill, compost grind site, reuse center, community garden, electronic recycling facility
  - Film screenings - Garbage, Story of Stuff, Kilowatt Ours, Who Killed the Electric Car?, Tapped
  - Intern write-up and debriefs of fieldtrips and film screenings to follow each activity (interns)
5. **Promotion and Preparation for Zero Waste Activities at Live Green Expo**- January 2010 - April 2010
  - Identify and contact designers (Education Coordinator) - January 2010
  - Request proposals for designs that fit with other Expo marketing (Education Coordinator) - January 2010
  - Approve designs and ideas for signage (Supervisor) - February 2010
  - Order signage and other promotional collateral (Education Coordinator) - February 2010
  - Identify and order promotional items (i.e. zero waste lunch kits, etc) (Education Coordinator) - February 2010
  - Order Green Ambassador t-shirts (Education Coordinator) - February 2010
  - Cross promote Zero Waste with other Expo media activities (Media Specialist) - February 2010 - April 2010
  - Install signage at venue (Interns) - April 2010
6. **Recruiting and Training of Green Ambassadors for Live Green Expo**- February 2010 - April 2010
  - Identify and recruit volunteers through LGIP volunteer pool and school contacts (Education Coordinator/ Interns)- February 2010 - April 2010
  - Train Green Ambassadors (Education Coordinator/ Interns) - April 2010
7. **Design and Development of Zero Waste Educational Exhibit** - January 2010 - April 2010
  - Identify key elements of educational message (Education Coordinator) - January 2010

- Identify and contact designers (Education Coordinator) - January 2010
  - Request proposals for designs (Education Coordinator) - January 2010
  - Approve designs and ideas for exhibit (Supervisor) - February 2010
  - Order exhibit (Education Coordinator) - February 2010
  - Display exhibit at Expo- April 2010
8. **Live Green Expo Zero Waste Event** – April 2010
- Complete Environmental Standards Document (Expo Team)
  - Educate vendors, exhibitors and volunteers on Zero Waste initiative (Expo Team, Volunteer Coordinator, Zero Waste Coordinator)- present - April 2010
  - Educate visitors and sort waste (Green Ambassadors, Zero Waste Coordinator) - April 2010
  - Audit materials collected (Zero Waste Coordinator, Interns) - April 2010
9. **Green Corps Intern Project Development and Implementation** – June 2010 - May 2011
- Job shadowing (Education Coordinators/ Interns) - June 2010 - July 2010
  - Individual project development (Education Coordinator/ Interns) - June 2010 - August 2010
  - Obtain support from partnering organizations (Interns) - August 2010
  - Finalize projects for approval (Interns/ Coordinator) - August 2010 - September 2010
  - Implementation of projects (Interns) - September 2010 - May 2011
  - Monthly follow up meetings and progress reports (Interns) - September 2010 - May 2011
  - Final presentation of project results and impacts (Interns) - May 2011
10. **Second Chance Swap and Reuse Events** – November 2010
- Develop concept and format (Education Coordinator/ Interns) - January 2010
  - Identify and confirm partner organizations (Education Coordinator/ Interns)- February 2010 - May 2010
  - Identify and confirm venues (Education Coordinator)- May 2010
  - Assign areas of responsibility (Education Coordinator) - June 2010
  - Identify and contact designers (Education Coordinator) - May 2010
  - Request proposals for designs for event identification (Education Coordinator) - May 2010
  - Approve designs and ideas for signage (Supervisor) - June 2010
  - Order signage and other promotional collateral (Education Coordinator) - July 2010
  - Identify and order promotional items and volunteer supplies (Education Coordinator) - July 2010
  - Prepare ads, press releases and website updates to promote event (Education Coordinator) - September 2010
  - Recruit and train volunteers (Education Coordinator)- October 2010 - November 2010
  - Implement Events (Team) - November 2010
11. **All expenditures and activities completed** – June 30, 2011
12. **Final reporting, reimbursement request and Release of All Claims** to NCTCOG 5 p.m. on Friday, July 31, 2011

## Attachment B. Schedules for Requests for Reimbursement and Quarterly Status Reports

### 1. REQUESTS FOR REIMBURSEMENT

The FUNDS RECIPIENT must submit a “Request for Reimbursement” at least quarterly (**even if no funds were spent**), but not more frequently than once a month, for reimbursement of actual allowable costs. Requests for Reimbursement may be submitted monthly and are not associated with the Status Report schedule. All Requests for Reimbursement shall be submitted in accordance with the requirements identified in Attachment D, Article 04 “Reimbursement Procedures” of this Interlocal Agreement.

The final Request for Reimbursement must include a Release of Claims as indicated under Attachment E, Article 09, “Release of Claims” of this Interlocal Agreement.

### 2. QUARTERLY STATUS REPORTS

The following represents the reporting schedule for projects funded in fiscal years 2010-11:

DUE DATES for FY2010 GRANT SUMMARY/RESULTS REPORTS	REPORTING PERIOD
Quarterly Grant Summary/Results Report #1: <b>Due Friday, April 1, 2010</b>	December 18, 2009 through March 31, 2010
Quarterly Grant Summary/Results Report #2: <b>Due Friday, July 1, 2010</b>	April 1, 2010 through June 30, 2010
Quarterly Grant Summary/Results Report #3: <b>Due Friday, October 1, 2010</b>	July 1, 2010 through September 30, 2010
Quarterly Grant Summary/Results Report #4: <b>Due Friday, January 3, 2011</b>	October 1, 2011 through Dec. 31, 2011
Quarterly Grant Summary/Results Report #5: <b>Due Friday, April 1, 2011</b>	January 1, 2011 through March 31, 2011
Final Results Report & Release of Claims <b>Due Friday, August 1, 2011</b>	April 1, 2011 through June 30, 2011
Follow-Up Results Report: <b>Due Friday, August 3, 2012</b>	One (1) year after completion of the project upon NCTCOG request.

### Attachment C. Budget and Detailed Cost Sheets

Note: This Budget information is taken directly from the Project Application.

BUDGET ITEM	PROJECT FUNDING AMOUNT	MATCHING SERVICES	CASH CONTRIBUTION	TOTAL PROJECT
1. Personnel/salaries	\$810	\$26,060	\$	\$26,870
2. Fringe benefits	\$	\$	\$	\$
3. Travel	\$	\$	\$	\$
4. Supplies	\$	\$	\$	\$
5. Equipment	\$	\$	\$	\$
6. Construction	\$	\$	\$	\$
7. Contractual	\$12,000	\$	\$	\$12,000
8. Other	\$15,584	\$13,400	\$	\$28,984
Total direct charges (sum of lines 1-8)	\$28,394	\$39,460	\$	\$67,854
9. Indirect charges	\$	\$	\$	\$
Total cost (sum of 1-9)	<b>\$28,394</b>	<b>\$39,460</b>	\$	<b>\$67,854</b>

Note: Matching services should relate only to staff or services directly involved with the funded project. Cash contributions identified in this project budget should be tracked separately from the in-kind services, with the understanding that if in-kind or cash contributions are not provided during the term of the grant, NCTCOG may terminate the grant for non-compliance.

**LIST MATCHING SERVICES & CASH CONTRIBUTIONS HERE**

Recycling and Zero Waste Education Coordinator- 860 hours @ \$19/ hour   **\$13,340**  
 Volunteer Time- 160 hours @ \$12/ hour   **\$1,920**  
 Green Ambassador Time- 720 hours @ \$10/ hour   **\$7,200**  
 College Intern- 120 hours @ \$15/ hour   **\$1,800**  
 Education Team Comp Time- 60 hours @ \$30/ hour   **\$1,800**

Cross Promotion of Zero Waste   **\$13,400**

(Includes: promoting the Live Green Expo in April 2010, billboards, radio reads, newsletters, and utility bill inserts.)

**DETAILED BUDGET SHEET - Line(s) 1, 2 and/or 9: Personnel/Salaries/Fringe Benefits/Indirect Rate**

This budget sheet should be completed if any expenses are entered for Personnel/Salaries on Line 1 of the Project Budget Summary; otherwise omit. **\$ 810.00**

In the space below, list the names, and titles of individuals whose salaries are paid for in all or in part from project funds. Also indicate if funds are for a new or existing employee.

Three (3) drivers from Sustainability & Environmental Services, City of Plano

Ten (10) hours of overtime pay at \$27 per hour for each driver for a total of \$810.00

If your budget lists fringe benefits (line 2) and indirect costs (line 9), you also must provide the following information:

◆ What is your fringe benefit rate: \_\_\_\_\_%

◆ What is your indirect charge rate\*: \_\_\_\_\_%

\* In accordance with the UGMS, indirect charges may be authorized if the applicant has a negotiated indirect cost rate agreement signed within the past 24 months by a federal cognizant agency or by a state single audit coordinating agency. Alternatively, the applicant may be authorized to recover up to 10% of direct salary and wage costs (excluding overtime, shift premiums, and fringe benefits) as indirect costs, subject to adequate documentation. If you have an approved cost allocation plan, please enclose documentation of your approved indirect rate.

DETAILED BUDGET SHEET - Line 3: **Project-Funded Travel**

This budget sheet should be completed if any expenses are entered for travel on Line 3 of the Project Budget Summary; otherwise omit. \$ \_\_\_\_\_

The following is an itemized list of the types of travel expenses expected, identifying the parties and purposes involved. In general, all travel is within the North Central Texas region or within Texas. All proposed travel outside Texas **must** be specifically listed and will need specific approval from the NCTCOG and the TCEQ.

**DETAILED BUDGET SHEET - Line 4: Project-Funded Supplies**

This budget sheet should be completed if any expenses are entered for supplies on Line 4 of your Project Budget Summary; otherwise omit. \$ \_\_\_\_\_

This type of expenditures must generally relate to the routine purchase of office supplies (paper, pencils, staple, etc.) or other goods that are consumed in a relatively short period of time in the regular performance of general office activities. (Expenses for food and alcoholic or non-alcoholic beverages are **not** allowable.)

The following is an itemized list of the general types of supplies and their cost that are intended to be purchased with project funding:

<u>Item</u>	<u>Unit Cost</u>	<u>Total Cost</u>
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DETAILED BUDGET SHEET - Line 5: **Project-Funded Equipment**

This budget sheet should be completed if any expenses are entered for equipment on Line 5 of the Project Budget Summary; otherwise omit. \$

Equipment includes all non-construction related, tangible property having a unit acquisition cost of **\$5,000** or more, with an estimated useful life of over one-year. All equipment purchases must be pre-approved by the NCTCOG.

**DETAILED BUDGET SHEET - Line 6: Project-Funded Construction**

This budget sheet should be completed if any expenses are entered for construction on Line 6 of the Project Budget Summary; otherwise omit. \$\_\_\_\_\_

All construction projects **must** be pre-approved by the NCTCOG. Construction costs include facility design, site preparation, and facility construction. Indicate clearly whether construction services are provided by you (project funds recipient) or through subcontracts for outside services.

Expenses budgeted under this category should be for costs related to the enhancement or building of permanent facilities. Appropriate costs that may be included are:

- the cost of materials and labor connected to the construction project;
- the cost of equipment attached to the permanent structure; and the cost of planning the project; and,
- any subcontracts, including contracts for services, performed as part of the construction.

All local government municipal laws and regulations, including UGMS, for bidding and contracting for services must be followed.

The following is an itemized list the construction expenses associated with the funded project, with as many specifications as possible:

**DETAILED BUDGET SHEET - Line 7: Project-Funded Contractual**

This budget sheet should be completed if any expenses are entered for contractual services on Line 7 of the Project Budget Summary; otherwise omit. **\$12,000.00**

All contractual expenses **must** be pre-approved by NCTCOG. Expenses included under this category should be for costs for professional services or tasks provided by a firm or individual who is not employed by the project funds recipient other than those related to construction. All local government municipal laws and regulations, including UGMS, for bidding and contracting for services must be followed during the project period.

Any expenses (including legal fees, staff time, travel and communications) related in any way to drafting legislation, lobbying for legislation, or other political activities are **not** allowable under this program.

The following is an itemized list of the contractual expenses associated with the funded project, with as many specifications as possible:

**Six (6) Green Corps Interns for one (1) year at \$2,000.00 each for a total of \$12,000.**

**DETAILED BUDGET SHEET -Line 8: Project-Funded Other Expenses**

This budget sheet should be completed if any expenses are entered under "other" on Line 8 of the Project Budget Summary; otherwise omit.

"Other" expenses are those for items or services that do not readily fit into any of the previous budget categories.

The following is an itemized list of other expenses:

\$ _____	Postage/delivery
\$ _____	Telephone/FAX
\$ _____	Utilities
\$ 1,930	Printing/reproduction
\$ 6,510	Advertising/public notices
\$ 3,111	Signage
\$ _____	Training
\$ 2,277	Office space and equipment rentals
\$ _____	Basic office furnishings (desks, chairs, filing cabinets, etc.)
\$ _____	Books and reference materials
\$ _____	Computer Hardware (under \$5,000 & not listed under equipment category)
\$ _____	Computer Software
\$ 1,756	Miscellaneous other expenses (Separately itemize these expenses below)

- Delivery equipment rentals  
(3 locations for \$160 with \$85 flat delivery plus \$75 for stairs) \$480
- Green Corps Shirts (8 at \$12 each) \$96
- Green Ambassador t-shirts (160 at \$5 each) \$800
- Latex Gloves (1,000 gloves at \$10 per 200) \$50
- Compostable Food Waste Bags (300 bags at \$6 for 10) \$180
- Clear Stream Recycling Bags (300 bags at \$10 for 20) \$150

<b>\$15,584</b>	<b>TOTAL "other" expenses, equal to the amount entered on Line 8 of the budget summary.</b>
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## Attachment D. Special Provisions

### Article 01: Purpose of the Interlocal Agreement

The purpose of this Interlocal Agreement is to implement the provisions of §361.014(b) of the Texas Health and Safety Code, regarding the distribution of solid waste fee revenue funds in support of local and regional solid waste projects consistent with the regional solid waste management plans adopted by the NCTCOG and Texas Commission on Environmental Quality (TCEQ). This Interlocal Agreement is to perform specific tasks identified by NCTCOG's Resource Conservation Council (RCC) among several top-ranked local project proposals during the FY2010 grant funding cycle.

### Article 02: Limitations and Reporting Requirements

Pursuant to §391 of the Local Government Code, funds received under this Interlocal Agreement will be expended only subject to the limitations and reporting requirements similar to those set forth in this Article:

- Audit and Reporting Requirements that the FUNDS RECIPIENT annually report to the Governor, §391.0095 of the Local Government Code, and 1 TAC §5.83 and §5.87, Governor's Office Regulations.
- FUND RECIPIENT'S Indirect Costs must comply with §391.0115 of the Local Government Code, and 1 TAC §5.86, Governor's Office Regulations.
- Restrictions on FUNDS RECIPIENT Travel Cost, §391.0115 of the Local Government Code, and 1 TAC §5.86, Governor's Office Regulations.
- Restrictions on Use of Alcoholic Beverages, §391.0115 of the Local Government Code, and 1 TAC §5.86, Governor's Office Regulations.
- Restrictions on Lobbying and Nepotism, §391.0116 of the Local Government Code, and 1 TAC §5.89, Governor's Office Regulations.
- Salary Administration Provisions and Schedules and Position Classification Schedules, §391.0117 of the Local Government Code, and 1 TAC §5.85, Governor's Office Regulations.
- General Limitations on Expenditures, §6.01 of SB 1, General Appropriations Act, 79<sup>th</sup> Legislative Session.

### Article 03. Financial Obligation

The FUNDS RECIPIENT is responsible for ensuring that expenditure amounts remain within the total budget limits. The FUNDS RECIPIENT must maintain records and documentation materials consistent with the requirements of this Attachment D "Special Provisions," the Uniform Grant and Contract Management Act (collectively, "UGCMA"), Texas Government Code, §§783.001 et. seq., and the Uniform Grant Management Standards, 1 Texas Administrative Code (TAC), §§5.141 et. seq. (collectively, "UGMS"). The FUNDS RECIPIENT must also follow up on any problems identified through its financial monitoring program.

In consideration of full and satisfactory performance hereunder, NCTCOG will be liable to the FUNDS RECIPIENT in an amount equal to the actual costs incurred by the FUNDS RECIPIENT in rendering such performance, subject to the following limitations:

NCTCOG is not liable for expenditures made in violation of Attachment E, Article 24, which outlines supplemental funding standards as defined by the TCEQ. NCTCOG is not liable for any costs incurred by FUNDS RECIPIENT in the performance of this Interlocal Agreement that have not been billed to NCTCOG within **thirty (30) calendar days** following termination of this Interlocal Agreement.

NCTCOG is not liable to the FUNDS RECIPIENT for costs incurred or performance rendered by FUNDS RECIPIENT before commencement of this agreement or after termination of this Interlocal Agreement.

Except as specifically authorized by NCTCOG in writing, NCTCOG is liable only for expenditures made in compliance with the cost principles and administrative requirements set forth in this Interlocal Agreement, stated guidelines and applicable rules and regulations.

Failure on the part of the FUNDS RECIPIENT to comply with the conditions set forth in this Interlocal Agreement shall be the basis for termination of the Interlocal Agreement and/or the revocation of any unexpended or inappropriately expended funds.

#### **Article 04: Reimbursement Procedures**

All payments for approved project expenditures shall be on a cost reimbursement basis only. The NCTCOG reserves the right to withhold or deny payments of funds awarded under this Interlocal Agreement due to incomplete, incorrect, or inconsistent reports or tasks required under this Interlocal Agreement, until the FUNDS RECIPIENT satisfactorily completes, revises, or corrects such services or reports.

Request for Reimbursement (Summary of Project Expenditures): For expenditures already incurred, the FUNDS RECIPIENT shall submit a request for reimbursement **at least quarterly**, but no more frequently than once per month, by the tenth (10<sup>th</sup>) calendar day following the end of each month for which expenditures are claimed. The FUNDS RECIPIENT must use the required Summary of Project Expenditures (Form PT-F2), with appropriate itemized lists (Forms PT-F2-A through PT-F2-E) submitted with an original signature.

All requests for reimbursement shall provide sufficient documentation, including:

- copy of purchase order(s),
- copy of invoice(s),
- check number and/or electronic transfer number under which payment was made, and
- information concerning the costs incurred to enable the NCTCOG to ascertain the eligibility of a particular expenditure to enable subsequent audits.

Specific guidelines and requirements are given later in this Attachment D for each category of allowed expenditures, in the Articles labeled "Personnel," "Supplies," "Equipment," "Travel," etc.

The FUNDS RECIPIENT may account for expenses incurred and request reimbursement of outlays under a cash or accrual basis, as defined and authorized by the UGCMA. Under this Interlocal Agreement, an eligible reimbursement cost must have been incurred within the time period indicated on the Summary of Pass-Through Grant Expenditures (Form PT-F2); shall have been already paid; or incurred by the last day of the Interlocal Agreement period of performance.

Payments: Upon review and approval of each Summary of Pass-Through Grant Expenditures, NCTCOG will make payment to FUNDS RECIPIENT, as soon as practicable. The Final Request for Reimbursement must be submitted at the end of the Interlocal Agreement period of performance and must include a Release of Claims.

## **Article 05. Budget Category Adjustments**

The FUNDS RECIPIENT may expend funds in excess of those listed for a particular budget category within the approved budget without requiring a formal amendment to this Interlocal Agreement, if:

The FUNDS RECIPIENT adheres to all other requirements of this Interlocal Agreement, concerning obtaining prior written authorization;

- The cumulative dollar amount of all excess expenditures among direct budget categories is equal to or less than 5% of the total budget amount.
- Sufficient funds are available in other budget categories to cover the excess expenditures.
- The transfer will maintain or further the scope and objective of the project as funded by this Agreement. NCTCOG will make the final determination if a transfer furthers the scope and objective of a project.
- The FUNDS RECIPIENT notifies the NCTCOG as soon as practical of the deviation from the budget categories.
- Budget category adjustments/changes for Personnel/Salaries, Equipment, Contractual, Construction, and Other expenditures must receive prior written authorization from the NCTCOG. In order to receive approval for a budget category adjustment, FUNDS RECIPIENT must complete and submit a **REQUEST FOR BUDGET REVISION** form as well as a memorandum explaining the requested budget revision(s).

## **Article 06. Project Reporting Requirements**

The FUNDS RECIPIENT shall prepare and submit to the NCTCOG, a quarterly written progress report concerning performance under this Interlocal Agreement documenting the accomplishments and units of work performed under the Scope of Services of this Agreement. The quarterly "Summary/Results Report of Implementation Project" form must be submitted using the forms provided. The quarterly "Summary/Results Report of Implementation Project" form will be due to the NCTCOG on the days indicated under the Schedule for Reimbursement and Reporting in Attachment B.

The FUNDS RECIPIENT'S Summary/Results Report of Implementation Project report shall contain adequate descriptions of all project activities performed in order to allow the NCTCOG to evaluate compliance with the provisions of this project. Performance information concerning timelines in meeting the schedule for required reports will be maintained by the NCTCOG and shared with members of the Resource Conservation Council (RCC).

In particular, any legal research and related legal activities shall be clearly detailed in the progress reports in order to assure the NCTCOG that the activities are not prohibited under Attachment E, Article 24 of this Interlocal Agreement. The FUNDS RECIPIENT shall comply with any reasonable request by the NCTCOG for additional information on activities conducted in order for the NCTCOG to adequately monitor the FUNDS RECIPIENT'S progress in completing the requirements of and adhering to the provisions of this Interlocal Agreement.

A Final Report shall be provided in conjunction with the final request for payment under this Interlocal Agreement. In this Final Report, the FUNDS RECIPIENT shall certify, in writing, the satisfactory completion of all activities and deliverables required under this Interlocal Agreement.

Reimbursement payments under this Interlocal Agreement may be withheld by the NCTCOG until such time as any past due progress reports are received. The Final Report shall consist of the same

forms used for the Summary/Results Report of Implementation Project form and the supplemental detailed forms for this project's funding category. The Final Report shall include information on the progress during the last quarter of the project as well as cumulative information from the beginning of the project through its completion.

The FUNDS RECIPIENT also agrees to provide NCTCOG one or more "Follow-up Results" Report(s) documenting the continued impact of this funded project beyond the end date of this agreement. The Follow-up Results Report(s) will be required on a schedule to be provided by NCTCOG, approximately one year after the end of the project funding cycle. The Follow-up Results Report form will be provided by NCTCOG to the FUNDS RECIPIENT later in the funding cycle.

The FUNDS RECIPIENT agrees to provide, throughout the life of the project, additional reports (as requested by the NCTCOG) to document the project's continued results at the culmination of the project.

Timeliness in completing reporting requirements will be monitored by the NCTCOG and reported to the RCC. If the FUNDS RECIPIENT is not able to submit a scheduled progress report on time, the FUNDS RECIPIENT must contact the NCTCOG Project Representative for a report extension due date prior to the original submittal date. If the FUNDS RECIPIENT fails to submit the Summary/Results Report of Implementation Project form to NCTCOG's Project Representative upon notice/reminder, this matter will be brought to the attention of NCTCOG's RCC for further resolution. Failure to comply with the requirements of this Article shall constitute a breach of this Interlocal Agreement.

#### **Article 07. Performance Measures**

The timeliness of meeting reporting requirements and completion of the original Work Program will be monitored by the NCTCOG and reported to the RCC. Performance on reporting requirement information will be considered as an evaluation criteria for future Requests for Projects. As such, the FUNDS RECIPIENT is cautioned to meet all of the reporting requirements as outlined in Attachment B of this Interlocal Agreement. Prior written notification must be provided to NCTCOG in the event that the FUNDS RECIPIENT is unable to comply with the reporting requirements.

#### **Article 08. Identification of the Funding Source**

The FUNDS RECIPIENT must acknowledge the financial support of the NCTCOG and the State of Texas whenever work is funded, in whole or part, through this Interlocal Agreement. This includes using following notation on the front cover, title page, surface of recycling bins or carts, vehicle wraps, vehicles, pencils, pens, T-shirts, stickers, electronic devices, all mechanical equipment, etc.

***"Prepared in cooperation with the North Central Texas Council of Governments through funding from the Texas Commission on Environmental Quality."***

Tangible items where surface space is limited may utilize the TCEQ logo only. Consult with the NCTCOG Project Representative to obtain this logo and for the proper display.

#### **Article 09. Personnel**

In addition to the project funding reimbursement request, all outlays that fall within the "Personnel/Salaries" category of the budget shall be itemized by the FUNDS RECIPIENT on Form PT-F2-A. For Personnel/Salaries expenditures, the FUNDS RECIPIENT is expected to maintain signed time sheets that can serve to verify the total, overall hours of staff time directly billed to this Interlocal Agreement. Payments from funds provided under this Interlocal Agreement for accruals

such as vacation, sick leave, severance pay, or other accruals are allowed only for time during which the employee was employed and performing work under this Interlocal Agreement.

The FUNDS RECIPIENT employee positions covered in this Interlocal Agreement are listed in Attachment C. The FUNDS RECIPIENT must notify and seek approval from NCTCOG for any changes in personnel whose salaries are funded under this Interlocal Agreement.

#### **Article 10. Travel**

Only the employees of the FUNDS RECIPIENT assigned to the project should receive reimbursement for travel expenses. All travel for which expenses are claimed must be in connection with the tasks and activities required under this Interlocal Agreement, and shall be in compliance with the State Travel Regulation and Restrictions on Travel Costs as outlined in §391.0115 of the Local Government Code. Except as provided for in this Interlocal Agreement as indicated under Attachment C of the program budget, the FUNDS RECIPIENT shall obtain prior written authorization from the NCTCOG for reimbursement from the travel expense budget category of any travel expenses for persons not employed by the FUNDS RECIPIENT, and for travel by any employee not included in Attachment C of the program budget.

Out-of-state travel should not normally be allowed and will require prior written approval from NCTCOG and TCEQ, prior to the travel event. In order for travel expenses to be reimbursed under the conditions of this Interlocal Agreement, the FUNDS RECIPIENT shall comply with the State Travel Regulations as required by Section 33, Article IX, H.B. 1, and any Restrictions on Travel Costs as outlined in §391.0115 of the Local Government Code.

Documentation should, at a minimum, be consistent with the State Travel Regulations and any Restrictions on Travel Cost. The purpose of the travel shall be documented and supported with any of the appropriate records, such as automobile mileage totals for the reporting period (gasoline receipts will not be accepted for privately owned vehicles), actual receipts for hotel accommodations, public transportation receipts, airline receipts, meal receipts, etc. The reimbursement request must include the itemization of travel expenses on Form PT-F2-A. The FUNDS RECIPIENT is not required to submit a daily or incidental mileage log as a part of Form PT-F2-A. However, mileage trip logs documenting amount of miles traveled per day or per trip, the FUNDS RECIPIENT must maintain destination and purpose of trip as part of the FUNDS RECIPIENT'S records. Such mileage logs must be made available upon request by the NCTCOG or the TCEQ.

#### **Article 11. Consumable Supplies**

Expenses shall be for non-construction related costs for goods and materials having a unit acquisition cost (including freight) of less than \$1,000. Such expenditures shall generally relate to the routine purchase of office supplies (paper, pencils, and staplers) or other goods, which are consumed by the FUNDS RECIPIENT in a relatively short period of time, in the regular performance of the general activities funded under this Interlocal Agreement. FUNDS RECIPIENT is expected to conform to the appropriate bid process for purchases according to the FUNDS RECIPIENT'S own internal policies and procedures.

Non-routine expenditures of goods and materials, not falling under the definition of Supplies, should be charged to the "Other" Expense Category. Supporting documentation shall include whatever is necessary to show that the work was performed and the expense incurred. Supporting documentation for reimbursement must include verification that the cost has been paid by the FUNDS

RECIPIENT, a copy of the purchase order (if issued) and a copy of the invoice. A request for reimbursement for supplies must include itemized expenses on Form PT-F2-D.

## **Article 12. Equipment**

For the purposes of this Interlocal Agreement, equipment is defined as those items with a unit acquisition cost of \$5,000 or greater. All equipment expenses are subject to prior approval by NCTCOG before purchase.

Subject to the obligations and conditions set forth in this Interlocal Agreement, title to real property and equipment (together hereafter referred to in this Article as "property") acquired under this Interlocal Agreement by the FUNDS RECIPIENT will vest upon acquisition or construction.

Subject to the provisions of this Interlocal Agreement and as otherwise provided by State statutes, property acquired or replaced under this Interlocal Agreement shall be used for the duration of its normally expected useful life to support the purposes of this Interlocal Agreement whether or not the original projects or programs continue to be supported by state funds.

The FUNDS RECIPIENT shall not allow to a third party a security interest in any original or replacement property purchased or constructed with funds made available to the FUNDS RECIPIENT under this Interlocal Agreement.

The use of property acquired under this Interlocal Agreement, both during the term of this Interlocal Agreement and for the useful life of the property or until compensation is provided to the TCEQ for the applicable percentage share of the fair market value of the property, shall be in compliance with §361.014(b) of the Texas Health & Safety Code Annotated, which directs that a project or service funded under this program must promote cooperation between public and private entities and may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services.

The FUNDS RECIPIENT may develop and use their own property management systems, which must conform to all applicable federal, state, and local laws, rules and regulations. If an adequate system for accounting for property owned by the FUNDS RECIPIENT is not in place or is not used properly, the Property Accounting System Manual issued by the State Comptroller of Public Accounts will be used as a guide for establishing such a system. The property management system used by the FUNDS RECIPIENT must meet the requirements set forth in this Section.

Property records must be maintained that include a description of the property, a serial number or other identification number, the source of the property, who holds title, the acquisition date, and the cost of the property, percentage of state participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

A physical inventory of all equipment acquired or replaced under this Interlocal Agreement shall be conducted no less frequently than once every two years and the results of such inventories reconciled with the appropriate property records. Property control procedures utilized by the FUNDS RECIPIENT shall include adequate safeguards to prevent loss, damage, or theft of the acquired property. Any loss, damage, or theft shall be investigated. The FUNDS RECIPIENT shall develop and carry out a program of property maintenance as necessary to keep both originally acquired and any replaced property in good condition, and to utilize proper sales procedures to ensure the highest possible return, in the event such property is sold.

Certain types of equipment are classified as “controlled assets” and are subject to annual revision. In accordance with the UGMS, the FUNDS RECIPIENT should contact the Texas Comptroller of Public Accounts’ property accounting staff or review the Comptroller’s state Property Accounting User Manual available on the Internet, for the most current listing. Firearms shall be maintained on the FUNDS RECIPIENT’S inventory system irrespective of cost, and the following equipment with costs between \$500 and \$5,000 shall be maintained on the inventory system: (1) stereo systems, (2) still and video cameras, (3) facsimile machines, (4) VCRs and VCR/TV combinations; (5) cellular and portable telephones.; and, (6) computer hardware.

The FUNDS RECIPIENT may for the purpose of replacing property acquired under this Interlocal Agreement, either trade in or sell the property and use the proceeds of such trade-in or sale to offset the cost of acquiring needed replacement property.

The FUNDS RECIPIENT agrees that if a determination is made that any property acquired with funds provided under this Interlocal Agreement with a current per-unit fair market value of \$5,000 or more is no longer needed for the originally authorized purpose, the TCEQ has the right to require disposition of the property by the FUNDS RECIPIENT in accordance with the provisions of this Article.

When during the useful life of property acquired with project funds under this Interlocal Agreement by the FUNDS RECIPIENT and with a current per-unit fair market value of \$5,000 or more, the property is no longer needed for the originally authorized purpose, the FUNDS RECIPIENT agrees to request disposition instructions from the TCEQ. When property acquired by a FUNDS RECIPIENT with project funds provided by the TCEQ under this Interlocal Agreement is no longer needed for the originally authorized purpose, the FUNDS RECIPIENT agrees that this Interlocal Agreement will require the NCTCOG to request disposition instructions from the FUNDS RECIPIENT or, if the NCTCOG is no longer administering a Regional Solid Waste Implementation Project Program, the TCEQ.

The NCTCOG shall, in turn, request authorization from the TCEQ to provide disposition instructions to the FUNDS RECIPIENT. Disposition instructions shall solicit, at a minimum, information on the source and amount of funds used in acquiring the property, the date acquired, the fair market value and how the value was determined (e.g., by appraisal, bids, etc.), and the proposed use of the proceeds. The assessment of whether to authorize the proposed disposition of the property must include a determination that the disposition plan will comply with the private industry provisions of §361.014(b) of the Texas Health Safety Code Annotated.

In cases where the FUNDS RECIPIENT fails to take appropriate disposition actions, the TCEQ may direct the NCTCOG to take excess and disposition actions. The disposition instructions may provide for one of the alternatives as set forth in this Section.

Retain title, sell, or otherwise disposed of with no obligation to compensate the TCEQ or, in the case of a FUNDS RECIPIENT. Retain title after compensating the TCEQ or, in the case of an implementation project funding recipient, the NCTCOG. If the NCTCOG is compensated by a FUNDS RECIPIENT for property acquired using funds provided under this Interlocal Agreement, the NCTCOG will in turn compensate the TCEQ or, upon authorization by the TCEQ, use those funds for other projects or activities that support this or similar future programs conducted by the TCEQ. The amount due will be computed by applying the percentage of state-funded participation in the cost of the original purchase to the fair market value of the property.

Sell the property and compensate the TCEQ or, in the case of project funding recipient, the NCTCOG. If the NCTCOG is compensated by a FUNDS RECIPIENT for property acquired using funds provided

under this Interlocal Agreement, the NCTCOG will in turn compensate the TCEQ or, upon authorization by the TCEQ, use those funds for other projects or activities that support the goals of this or similar future programs conducted by the TCEQ. The amount due will be calculated by applying the TCEQ percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the project is still active, the net proceeds from sale may be offset against the original cost of the property. When the FUNDS RECIPIENT is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.

Transfer title to the TCEQ or, in the case of an implementation project funds recipient, the NCTCOG, or to a third-party designated/approved by the TCEQ. If the FUNDS RECIPIENT participated financially in the original purchase of the property, the FUNDS RECIPIENT may be authorized payment from the receiving party of an amount calculated by applying the percentage of the participation in the original purchase of the property to the current fair market value of the property.

Items of property with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of by the FUNDS RECIPIENT with no further obligation to the TCEQ. Methods used to determine per-unit fair market value must be documented, kept on file and made available to the TCEQ upon request.

A request for reimbursement for equipment must include itemized expenses on Form PT-F2-B.

### **Article 13. Contractual Expenses**

No contractual expenditures are eligible for reimbursement under this Interlocal Agreement, unless such contracts' scope of work has been approved ahead of time, in writing, by the NCTCOG. Any amendments to the FUNDS RECIPIENT'S subcontract authorization for reimbursement under this Interlocal Agreement, whether or not such subcontract required NCTCOG's pre-approval, which will result in or require substantive changes to any of the tasks required to be performed under this Interlocal Agreement, must be approved in writing by the NCTCOG.

Examples of contractual expenses include professional (subcontracted) services. The FUNDS RECIPIENT is expected to conform to the appropriate bidding and contracting laws and regulations according to the FUNDS RECIPIENT'S own internal policies and procedures. In addition, the FUNDS RECIPIENT is required to maintain documentation that the costs incurred for contractual expenses (including subcontract expenses) were reasonable and necessary. Please note the specific guidance applicable to project restrictions, especially regarding projects that require a TCEQ permit or registration.

All outlays that fall within the "Contractual" category of the budget shall be itemized by the FUNDS RECIPIENT on Form PT-F2-B, to accompany the Request for Reimbursement (Form PT-F2). In addition, the FUNDS RECIPIENT shall attach, for each item listed, legitimate documentation that (1) further identifies the specific cost; (2) clearly identifies the vendor or subcontractor who provided the materials or services; and (3) confirms the reimbursable materials listed.

Supporting documentation shall include a purchase order marked "received/paid" and an invoice similarly marked, plus a copy of the check under which payment for the expense was made. In the case of subcontractor services, the supporting documentation shall consist of a dated invoice marked "received/paid" showing the amount billed to the FUNDS RECIPIENT, indicating any "past due" amount from previous invoices and a copy of the check.

**Article 14. Construction**

Expenses budgeted under this category should be for costs related to the enhancement or building of permanent facilities. Examples include: facility design, site preparation and facility construction, including slabs, paving, awning, attendant shelters with sanitation facilities, fencing and lighting, containment berms, and electronic data-recording equipment.

The FUNDS RECIPIENT shall obtain and pay for all construction permits and licenses. The FUND RECIPIENT shall also pay all charges of utility owners for connections to the work and for charges associated with capital costs related thereto, such as plant investment fees.

The FUNDS RECIPIENT is expected to conform to the appropriate bidding process according to the FUNDS RECIPIENT’S own internal policies and procedures. In addition, the FUNDS RECIPIENT is required to maintain documentation to support that the cost incurred were reasonable and necessary. Appropriate costs that may be included are:

- a. The costs of planning the project.
- b. The cost of materials and labor connected to the construction project.
- c. The cost of equipment attached to the permanent structure; and
- d. Any subcontracts (including contracts for services) performed as part of the construction.

All outlays that fall within the “Construction” category of the budget shall be itemized by the FUNDS RECIPIENT on Form PT-F2-C, to accompany the Request for Reimbursement (Form PT-F2). In addition, the FUNDS RECIPIENT shall attach, for each item listed, legitimate supporting documentation that (1) further identifies the specific cost; (2) clearly identifies the vendor or subcontractor who provided the materials or services; and (3) confirms the reimbursable materials listed. The supporting documentation shall include a copy of the purchase order marked “received/paid”, and an invoice similarly marked plus a copy of the check. In the case of subcontractor services, the supporting documentation shall consist of a dated invoice showing the amount billed to the FUNDS RECIPIENT and any “past due” amount from previous invoices marked “received/paid” indicating the check number. In addition, the FUNDS RECIPIENT is subject to all the requirements related to Title to Equipment and Construction Facilities, as indicated in Attachment D, Article 11.

**Article 15. Other Expenses**

No expenses under the “Other” budget category, including computer hardware or software purchases not included under the “Equipment” budget category, shall be eligible for reimbursement under this Interlocal Agreement, unless approved ahead of time, in writing, by the NCTCOG.

The “Other” expenses as identified in Attachment C of the Project Budget are allowed. The restrictions set forth in the Uniform Grant and Contract Management Standards apply. All expenses budgeted under this “Other” category shall be itemized by the project funds recipient when requesting reimbursement. Some expenses that may be appropriate include:

A Postage/delivery	g. Office Space
b. Telephone/FAX	h. Basic Office Furnishings
c. Utilities	i. Legal Costs
d. Printing/Reproduction	j. Vehicle Maintenance
e. Advertising/Public notices	k. Any others
f. Signage	

The expenses under this budget category must receive NCTCOG's written approval prior to purchase. Again, for these "other" expenditures, documentation for reimbursement must show that the expenses were incurred (a copy of the check), and shall include purchase orders if issued and invoices, or receipts marked "received/paid." Any Request for Reimbursement must include an itemization of the expenses, using Form PT-F2-D.

#### **Article 16. Indirect Expenses**

Indirect costs rates under this Interlocal Agreement shall comply with all provisions of §391.0115 of the Texas Local Government Code relating to the restrictions on commission costs, and the FUNDS RECIPIENT shall advise the NCTCOG in writing in the event such compliance will necessitate a reduction or other change to the indirect cost rate(s) set forth in the budget identified under Attachment C.

The Indirect Cost Rate(s) included under Attachment C shall remain in effect subject to formal approval by either a Federal Cognizant Agency, a State Coordinating Agency based on a recent audit performed by an independent auditor, or another funding entity, that specifically examines and reports the indirect cost rate for the FUNDS RECIPIENT accounting period(s) covered under this Interlocal Agreement. The FUNDS RECIPIENT agrees to reimburse the NCTCOG any overpayments received as a result of any final audit finding.

In the event that the FUNDS RECIPIENT'S Federal Cognizant Agency, or State Coordinating Agency approves, prior to the termination date of this Agreement, determines a final audited indirect cost rate which is different from the indirect rate set forth in this Interlocal Agreement, the FUNDS RECIPIENT and the NCTCOG may negotiate a new contract budget and incorporate such into this Interlocal Agreement by way of a contract change. Nothing in this section, or the results of any indirect cost audit or final indirect cost rate approval, shall cause the NCTCOG to owe the FUNDS RECIPIENT more than the FUNDS RECIPIENT amount shown in budget set forth in Attachment C.

#### **Article 17. In-kind Services/Cash Contributions**

In reference to the performance of the FUNDS RECIPIENT under this Interlocal Agreement, In-kind Services shall be for staff or services directly involved with the work related activities as defined in the approved work plan. A cash contribution is a monetary contribution to the project budget provided by the FUNDS RECIPIENT.

In-kind Services and Cash Contributions as defined in the approved Project Budget will be tracked separately with the understanding that in the event that such services and/or contributions are not provided during the term of this Interlocal Agreement, the NCTCOG may terminate the Interlocal Agreement for non-compliance.

The FUNDS RECIPIENT shall track In-kind Services and Cash Contributions separately from project funding and shall itemize those costs on the required Form PT-F2-E, which shall be submitted with each Request for Reimbursement (Form PT-F2).

#### **Article 18. Project Contacts**

The NCTCOG hereby designates the person in Article 17 of this Attachment as the individual authorized to give direction to the FUNDS RECIPIENT for the purposes of this Interlocal Agreement.

The NCTCOG Project Representative shall not be deemed to have authority to bind the NCTCOG in contract unless the NCTCOG's Executive Director has delegated that person to have such authority.

The FUNDS RECIPIENT shall identify as its Project Representative, the person authorized to receive direction from the NCTCOG, to manage the work being performed, and to act on behalf of the FUNDS RECIPIENT. The FUNDS RECIPIENT'S Project Representative shall not be deemed to have authority to bind the FUNDS RECIPIENT in contract unless the FUNDS RECIPIENT, in writing, specifically specifies such authority to the NCTCOG.

Either party may change its Project Representative as the need arises. In addition, the Project Representative of either party may further delegate his or her authority if necessary, including any delegation of authority to a new Project Representative. The party making any change in the Project Representative shall provide written notice of the change to the other party.

The NCTCOG hereby designates the individual below as the person to give direction to the FUNDS RECIPIENT as Project Representative of NCTCOG:

**Jennifer Vuitel, Planner**  
**Environment and Development Department**  
**P. O. Box 5888; 616 Six Flags Drive**  
**Arlington, Texas 76005-5888**  
**TEL 817- 695-9223                      FAX 817-695-9191**  
**Email: [jvuitel@nctcog.org](mailto:jvuitel@nctcog.org)**

The FUNDS RECIPIENT hereby designates the individual named below as the person authorized to receive direction from the NCTCOG, to manage the work being performed, and to act on behalf of the FUNDS RECIPIENT as the Project Representative:

**Kim Soto**  
**Environmental Education Coordinator**  
**P.O. Box 860358**  
**Plano, TX 75086-0358**  
**TEL 972-769-4343                      FAX 972-769-4219**  
**Email: [kims@plano.gov](mailto:kims@plano.gov)**

The FUNDS RECIPIENT designates the following location for record access and review:

**4120 W. Plano Parkway**  
**Plano, Texas 75093**

## **Attachment E. General Provisions**

### **Article 01. Eligible Project Funding Recipients**

Only those local and regional political subdivisions located within the State of Texas as listed below are eligible to receive funding from the NCTCOG for an implementation project:

- Cities;
- Counties;
- Public schools through their school districts and school districts (does not include universities or post secondary educational institutions);
- Other general and special law districts created in accordance with state law, and with the authority and responsibility for water quality protection or municipal solid waste management, to include river authorities; and,
- Councils of Government.

Local and regional political subdivisions that are subject to the payment of state solid waste disposal fees and whose fee payments are in arrears, as determined by the TCEQ, are not eligible to receive implementation project funding from the NCTCOG. The TCEQ shall provide, on a quarterly basis, the NCTCOG a list of entities for which fee payments are in arrears. The NCTCOG shall allow a potential implementation project applicant that is listed as being in arrears in its fee payments the opportunity to provide documentation of payment of the fees owed to the state. If the potential applicant provides the NCTCOG with documentation of payment of the fees, such as a canceled check or receipt from the state, or waiver of the fee in question, the NCTCOG may consider that applicant to be eligible to receive implementation project funding under this Interlocal Agreement.

### **Article 02. Responsibilities of the FUNDS RECIPIENT**

The FUNDS RECIPIENT shall be responsible for the professional quality, technical accuracy, timely completion and the coordination of all services and other work furnished by the FUNDS RECIPIENT under this Interlocal Agreement.

The FUNDS RECIPIENT shall perform such services as may be necessary to accomplish the work required under this Interlocal Agreement, in accordance with the FUNDING AGENCY and contractual requirements and any and all applicable law.

The NCTCOG may require the FUNDS RECIPIENT to correct and revise any errors, omissions or other deficiencies in any reports or services provided by the FUNDS RECIPIENT to ensure that such reports and services fulfill the purposes of this Interlocal Agreement. The FUNDS RECIPIENT shall make the required corrections or revisions without additional cost to the NCTCOG.

Neither the NCTCOG's review, approval or acceptance of, nor payment for any of the services shall be construed to operate as a waiver of any rights under this Interlocal Agreement or of any cause of action arising out of the performance of this Interlocal Agreement; and the FUNDS RECIPIENT shall be, and remain liable in accordance with applicable law for all damages to the NCTCOG, including reasonable attorney's fees and court costs caused by the FUNDS RECIPIENT'S negligent performance of any of the services furnished under this Interlocal Agreement.

The obligations of the FUNDS RECIPIENT under this Article are in addition to the FUNDS RECIPIENT'S other express or implied assurances under this Interlocal Agreement or applicable law.

### **Article 03. Oversight of Solid Waste Implementation Project Program**

NCTCOG staff, through its designated Project Representative, is responsible for managing the solid waste implementation project program, for negotiating the work scope of services, the budget, and the term of the Interlocal Agreement. NCTCOG staff will review and authorize Requests for Reimbursement; review progress reports and will undertake site visits.

In addition, NCTCOG's Resource Conservation Council (RCC), the regional solid waste advisory committee under the Executive Board, will oversee the comprehensive implementation project program assure compliance with state requirements and achievement of regional objectives. Other oversight duties of the RCC will include arbitration of projects as necessary and review and approval of key contract amendments.

### **Article 04. Standards for Implementation Projects**

The following standards and limitations apply to all implementation project activities funded under this Agreement. The FUNDS RECIPIENT is responsible for ensuring compliance of these standards in the following project categories.

Local Enforcement. This category consists of projects that contribute to the prevention of illegal dumping of municipal solid waste, including liquid wastes. Under this category, funding recipients may investigate illegal dumping problems; enforce laws and regulations pertaining to the illegal dumping of municipal solid waste, including liquid waste; establish a program to monitor the collection and transport of municipal liquid wastes, through administration of a manifesting system; and educate the public on illegal dumping laws and regulations. Examples of categories eligible for funding include equipment such as vehicles, communications equipment, and surveillance equipment as well as program administration expenses, such as salaries/fringe benefits, office supplies and equipment, travel, training, and vehicle maintenance. Also eligible for funding is protective gear and supplies and educational materials. Funding limitations specific to this category are set forth in this Section.

Funds may not be provided to any law enforcement agency regulated by Chapter 415, Texas Government Code, unless: (a) the law enforcement agency is in compliance with all rules developed by the Commission on Law Enforcement Standards and Education pursuant to Chapter 415, Texas Government Code; or (b) the Commission on Law Enforcement Officer Standards and Education certifies that the requesting agency is in the process of achieving compliance with such rules.

When funding is to be provided for salaries of local enforcement officers, the funds recipient must certify that at least one of the officers has attended or will attend within the term of the funding the TCEQ's Criminal Environmental Law Enforcement Training or equivalent training.

Local enforcement vehicles and related enforcement equipment purchased entirely with funds provided under this Agreement may only be used for activities to enforce laws and regulations pertaining to littering and illegal dumping, and may not be used for other code enforcement or law enforcement activities. Vehicles and equipment that are only partially funded must be dedicated for use in local enforcement activities for a percentage of time equal to the proportion of the purchase expense funded.

Entities receiving funds for a local enforcement officer, enforcement vehicles, and/or related equipment for use by an enforcement officer, must investigate major illegal dumping problems, on both public and private property, in addition to investigating general litter problems on public property.

Entities receiving funds to conduct a local enforcement program must cooperate with the TCEQ's regional investigative staff in identifying and investigating illegal dumping problems. Lack of cooperation with the TCEQ staff may constitute a reason to withhold future funding to that entity for local enforcement activities.

Funds may not be used for investigation and enforcement activities related to the illegal dumping of industrial and/or hazardous waste. Instances where industrial or hazardous waste is discovered at a site do not preclude the investigation of that site, so long as the intent and focus of the investigation and enforcement activities are on the illegal dumping of municipal solid waste.

Source Reduction and Recycling. This category includes projects that provide a direct and measurable effect on reducing the amount of municipal solid waste going into landfills, by diverting various materials from the municipal solid waste stream for reuse or recycling, or by reducing waste generation at the source. Funded activities may include: facility design and construction; equipment, such as chippers, balers, crushers, recycling and composting containers, trailers, forklifts, and trucks; program administration expenses, such as salaries/fringe benefits, office supplies and equipment, travel, and training; and, educational materials; printing and advertisement expenses. Funding limitations specific to this category are set forth in this Section.

Programs and projects funded under this category shall have as a goal and be designed to provide a measurable effect on reducing the amount of municipal solid waste being disposed of in landfills.

Any program or project funded with the intent of demonstrating the use of products made from recycled and/or reused materials shall have as its primary purpose the education and training of residents, governmental officials, private entities, and others to encourage a market for using these materials.

Projects funded under this Interlocal Agreement may not include programs dedicated to the collection and/or recycling of automotive wastes, to include scrap tires, used oil, oil filters, antifreeze, or lead-acid batteries. This restriction includes the purchase of equipment to shred or split scrap tires. However, this restriction does not apply to the ancillary collection of these materials as part of a comprehensive Household Hazardous Waste Collection facility or program.

Local Solid Waste Management Plans. This category includes projects to develop and have adopted by the TCEQ a local solid waste management plan, in accordance with Subchapter D, §363 of the Texas Health & Safety Code, as implemented by TCEQ rule, 30 TAC Chapter 330, Subchapter O, or to amend an existing local solid waste management plan that has been adopted by the TCEQ. Funding limitations applicable to this category are set forth in this Section. The local planning area must be consistent with one or a combination of local solid waste management planning sub-regions identified by the NCTCOG in the regional solid waste management plan. Funding provided under this category may not be used for final engineering work, designs, or construction plans. At least one year should be allowed for the completion and adoption of the local plan.

Citizens' Collection Stations and "Small" Registered Transfer Stations. This category includes projects to construct and equip citizens' collection stations, as these facilities are defined under 30 TAC §330.2, TCEQ Regulations. Municipal Solid Waste Transfer Stations that qualify for registration under §330.4(d)(1) - (3) or §330.4(r) of the TCEQ Regulations may also be funded. The costs associated with operating a citizens' collection station once it is completed may not be funded. The design and construction of small municipal solid waste and liquid waste transfer stations that qualify for registration under §330.4(d) or §330.4(r), TCEQ Regulations, may be funded. Other permitted or registered transfer stations may not be funded.

A municipal solid waste transfer facility may be eligible for a registration if it serves a municipality with a population of less than 50,000, or a county with a population of less than 85,000, or is used in the transfer of 125 tons or less of municipal solid waste per day. A liquid waste transfer station may qualify for a registration if it will receive less than 32,000 gallons or less per day. The costs associated with operating a transfer station once it is completed may not be funded.

Funds may be used for projects funded for these types of facilities shall include consideration of an integrated approach to solid waste management, to include providing recycling services at the site, if appropriate to the management system in place. Funds may also be used for periodic community collection events, held not more frequently than four times per year, to provide for collection of residential waste materials for which there is not a readily-available collection alternative, such as large and bulky items that are not picked up under the regular collection system.

Transfer stations that qualify for a registration solely due to their location within a permitted municipal solid waste facility, under §330.4(d)(4), may not be funded.

Municipal solid waste transfer stations that qualify for a registration only under the provisions of §330.4(q) of the Municipal Solid Waste regulations allowing for registration of facilities that recover 10% or more of the waste stream for reuse or recycling, but not also under the provisions of §330.4(d) of the Municipal Solid Waste regulations, may not be funded. However, those components of a transfer facility dedicated to the reuse or recycling activities may qualify for funding under the source reduction and recycling grant category.

Municipal Solid Waste transfer stations that are used only in the transfer of grease trap waste, grit trap waste, septage, or other similar liquid waste, and which qualify for registration under §330.4(r) of the Municipal Solid Waste regulations may be funded under this category. Specifically, §330.4(r) of the regulations allows for registration of a liquid waste transfer facility that will receive 32,000 gallons a day or less.

Only the costs necessary to construct the facility and/or purchase and install necessary equipment may be funded. Costs associated with operating a facility once it is completed may not be funded.

Transfer stations that require a registration must have already received that registration from the TCEQ before a grant may be awarded.

Household Hazardous Waste Management. This category includes projects that provide a means for the collection, recycling or reuse, and/or proper disposal of household hazardous waste, including household chemicals and other materials. Projects may include collection events, consolidation and transportation costs associated with collection activities, recycling and/or reuse of materials; proper disposal of materials; permanent collection facilities, and education and public awareness programs. Funds may also be used to support Texas Country Cleanup events, conducted in conjunction with the TCEQ. Funding limitations specific to this category are set forth in this Section.

Projects under this category must be coordinated with the TCEQ HHW program staff, and all applicable laws, regulations, guidelines, and reporting requirements must be followed.

Funds provided under this Interlocal Agreement may not be used for programs and activities related to the collection and management of commercial, industrial, and hazardous wastes.

Funds provided under this Interlocal Agreement may not be used for programs and activities solely related to the management of scrap tires, used oil, oil filters, antifreeze, lead-acid batteries, or other special wastes excluded from disposal in municipal solid waste landfills. However, collection of these materials may be included as part of a comprehensive Household Hazardous Waste collection and management program, so long as that is not the sole intent of the program.

Technical Studies. This category includes projects which include the collection of pertinent data, analysis of issues and needs, evaluation of alternative solutions, public input, and recommended actions, to assist in making solid waste management decisions at the local level. Projects under this category may also include research and investigations to determine the location and boundaries of closed municipal solid waste landfills in support of the regional solid waste landfill inventory program. Funding limitations specific to this category are set forth in this Section.

All technical studies shall be consistent with the adopted regional solid waste management plan, and prepared in accordance with the Content and Format Guidelines provided by the TCEQ.

Funding may not be used for final engineering work, designs, or construction plans.

A landfill or landfiling may be the topic of a technical study only if it is part of an overall, integrated solid waste management system. However, this restriction does not apply to research related to an inventory of closed municipal solid waste landfill sites.

Litter/Illegal Dumping Cleanups and Community Cleanup Events. This category includes ongoing and periodic activities to clean up litter and illegal dumping of municipal solid waste, to include lake and river cleanup events conducted in conjunction with the TCEQ's and Keep Texas Beautiful's Lake and River Cleanup Program. Projects included under this category may include general community cleanup events designed to involve the residents and community in periodic cleanup of litter and trash within the community as well as waste removal; disposal or recycling of the removed materials; fencing and barriers; and signage. Placement of trash collection receptacles in public areas with chronic littering problems is also included. Reuse or recycling options should be considered for managing the materials collected, to the extent feasible. Funding limitations specific to this category are set forth in this Section.

Lake and River Cleanup events must be coordinated with the TCEQ's cleanup program staff and/or the Keep Texas Beautiful organization, which is contracted by the TCEQ to administer the Lake and River Cleanup program.

Projects funded to clean up litter or illegal dumping on private property must be conducted through a local government sponsor. Funds may not be provided directly to a private landowner or other private responsible party for cleanup expenses. The local government sponsor must either contract for and oversee the cleanup work, or conduct the work with its own employees and equipment.

The costs for cleanup of hazardous waste that may be found at a municipal solid waste site must be funded from other sources, unless a waiver from this restriction is granted by the TCEQ to deal with immediate threats to human health or the environment.

The costs for cleanup of Class 1 non-hazardous industrial waste that may be found at a municipal solid waste site must be funded from other sources, unless a waiver from this restriction is granted by the TCEQ to deal with immediate threats to human health or the environment. The cleanup of Class 2 and 3 non-hazardous industrial waste that may be found at a municipal solid waste site may be funded in conjunction with the cleanup of the municipal solid waste found at a site.

All notification, assessment, and cleanup requirements pertaining to the release of wastes or other chemicals of concern, as required under federal, state, and local laws and regulations, including 30 TAC Chapter 330, TCEQ's MSW Regulations, and 30 TAC Chapter 350, TCEQ's Risk Reduction Regulations, must be complied with as part of any activities funded under this Interlocal Agreement.

All materials cleaned up using grant funds must be properly disposed of or otherwise properly managed in accordance with all applicable laws and regulations. To the extent feasible, it is recommended that materials removed from a site be reused or recycled. For projects to clean up large amounts of materials, the NCTCOG may consider withholding at least ten (10) percent of the reimbursements under this Interlocal Agreement, until documentation is provided that the cleanup work has been completed and the materials properly managed.

Periodic community collection events, to provide for collection and proper disposal of non-recyclable residential waste materials for which there is not a readily available collection alternative, are eligible. This type of project may not include regular solid waste collection activities, such as weekly waste collection. Funded collection events may be held no more frequently than four times per year, and must only be intended to provide residents an opportunity to dispose of hard-to-collect materials, such as large and bulky items that are not picked up under the regular collection system, and might otherwise be illegally dumped by residents. Funding limitations specific to this category are set forth in this Section.

Educational and Training Projects. Educational components are encouraged under the other categories in order to better ensure public participation in projects; those educational components should be funded as part of those projects and not separately under this category. This category may be used for "stand-alone" educational projects dealing with a variety of solid waste management topics. This category may include funding for information-exchange activities, subject to the other limitations on travel expenses. Funding limitations specific to this category are set forth in this Section.

Programs and projects funded under this category shall be primarily related to issues involved in the management of municipal solid waste. Education or training events that cover a broader range of environmental issues may be funded on a partial basis appropriate to the extent to which municipal solid waste issues are covered.

## **Article 05. Monitoring Requirements**

NCTCOG shall conduct periodic analysis of FUNDS RECIPIENT'S performance under this Interlocal Agreement for the purpose of assessing the degree to which contractual objectives and performance standards, as identified in this Interlocal Agreement or as subsequently amended, are achieved by the FUNDS RECIPIENT.

NCTCOG may periodically monitor the FUNDS RECIPIENT for:

- The degree of compliance with the terms of this Interlocal Agreement, including compliance with applicable rules, regulations, and promulgations referenced herein;
- The administrative and operational effectiveness of the project; and,
- NCTCOG Project Representative must visit the FUNDS RECIPIENT facility and certify in writing that equipment is on site in order for FUNDS RECIPIENT to receive reimbursement for equipment expenditures.

## **Article 06. Compliance with Applicable Laws**

The FUNDS RECIPIENT shall, except as otherwise provided in this Interlocal Agreement, be responsible for giving notices, obtaining any necessary licenses and permits, complying with all provisions of this Interlocal Agreement, including, but not limited to, all applicable State, Municipal and Local laws, ordinances, rules, regulations and order of any public authority, in connection with the work required by this Interlocal Agreement. The main governing standards include, but may not be limited to, the following:

- §361.014. TEX. HEALTH and SAFETY CODE ANN. (as amended by H.B. 3072, 74<sup>th</sup> Texas Legislature);
- §330.569 of the TCEQ Municipal Solid Waste Regulations (30 TAC Chapter 330); and
- The Uniform Grant and Contract Management Act, TEX. GOV'T CODE ANN., §§783.001 et. Seq., and the Uniform Grant and Contract Management Standards, 1 Texas Administrative Code (TAC), §§5.141 et. seq. (collectively, "UGCMA").

If the FUNDS RECIPIENT or NCTCOG observes that this Interlocal Agreement is at variance in any respect, the observing party shall promptly notify the other party in writing, and any necessary changes shall be adjusted by appropriate Interlocal Agreement modification.

## **Article 07. Uniform Grant and Contract Management Act**

The provisions of the Uniform Grant and Contract Management Act ("UGCMA") apply to this Interlocal Agreement to the extent required by law.

## **Article 08. Accounting Systems**

The FUNDS RECIPIENT shall have an accounting system that accounts for costs in accordance with Generally Accepted Accounting Standards or Principles, and complies with applicable State law, regulations, and policies relating to accounting standards or principles. The FUNDS RECIPIENT must account for costs in a manner consistent with such standards or principles.

## **Article 09. Release of Claims**

Upon satisfactory completion of the work performed hereunder and prior to final payment under this Agreement for such work, or prior to settlement upon termination of this Agreement, and as a condition to final payment/settlement, the FUNDS RECIPIENT shall execute and deliver to the NCTCOG a release of all claims against the NCTCOG arising under or by virtue of this Interlocal Agreement.

## **Article 10. Access/Examination of Records**

The FUNDS RECIPIENT shall maintain and make available for review, inspection and/or audit books, records, documents, and other evidence reasonably pertinent to performance on all work under this Interlocal Agreement, including but not limited to, negotiated changes or amendments thereto, in accordance with accepted professional practice, appropriate accounting procedures and practices at the FUNDS RECIPIENT'S office. During the conduct of any such review, audit or inspection, the FUNDS' RECIPIENT'S books, records, and other pertinent documents may, upon prior conference with the FUNDS RECIPIENT, be copied by NCTCOG. All such information shall be handled by the parties in accordance with good business ethics. The FUNDS RECIPIENT shall provide proper facilities for such access and inspection.

The FUNDS RECIPIENT shall also maintain and make available at its designated location the financial information and data used by the FUNDS RECIPIENT or its designee (including independent financial auditors) in the preparation and support of any cost submission or cost (direct and indirect), price or profit analysis for this Interlocal Agreement or any negotiated Sub-Agreement or change order, and a copy of the cost summary shall be submitted to the NCTCOG.

The NCTCOG, or any of its duly authorized auditors or representatives, shall have access to such books, records, documents, and other evidence for the purpose of review, audit or inspection.

The records to be thus maintained and retained by FUNDS RECIPIENT shall include (without limitation):

- personnel and payroll records, including social security numbers and labor classifications, accounting for total time distribution of FUNDS RECIPIENT'S employees working full or part time on the work, as well as canceled payroll checks or signed receipts for payroll payments in cash;
- invoices for purchases, receiving and issuing documents, and all other unit inventory records for FUNDS RECIPIENT'S stocks or capital items; and
- paid invoices and canceled checks for materials purchased, subcontractor costs, and/or and any other third parties' charges.

Records under section (a) above shall be maintained and made available during the entire period of performance of this Interlocal Agreement and until three (3) years from the date of the final NCTCOG payment for the project. In addition, those records which relate to any dispute, litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until completion of such action and resolution of all issues which arise from it, or until the end of the three-year period, whichever is later.

Access to records is not limited to the required retention periods. The authorized representatives designated in Attachment D, Article 17 of this Interlocal Agreement shall have access to records at any reasonable time for as long as the records are maintained. Access to records applies to financial records pertaining to all subagreements and related changes, to the extent the records reasonably pertain to subagreement performance; if there is any indication that fraud, gross abuse or corrupt practices may be involved; or if the subagreement is terminated for default or for convenience. The NCTCOG reserves the right to require reimbursement of any over-payments determined as a result of any audit or inspection of records kept by the FUNDS RECIPIENT on work performed under this Interlocal Agreement.

#### **Article 11. Audits**

The FUNDS RECIPIENT shall provide assurances that, if funded, the FUNDS RECIPIENT will comply with the Single Audit provisions of the Uniform Grant Management Standards (UGMS), prepared by the Governor's Office under §§783.001 et.seq, Texas Government Code, and 1 TAC §§5.141 et.seq, Governor's Office Regulations. Provisions of the Single Audit Circular in Part 1V of the UGMS apply to all recipients of funding under this grant.

#### **Article 12. Insurance and Liability**

The FUNDS RECIPIENT understands and agrees that it shall be liable to repay and shall repay upon demand to NCTCOG any amounts determined by NCTCOG, its independent auditors, or any agency of state government any funds which have been paid in violation of the terms of this Interlocal Agreement.

### **Article 13. Hazardous Substances, Waste Disposal and Manifests**

The FUNDS RECIPIENT shall comply with all applicable laws and regulations, including but not limited to, those relating to hazardous substances, waste disposal, and manifests. The FUNDS RECIPIENT shall ensure that the same requirement will be incorporated into sub-agreements and/or subcontracts awarded under the provisions of this Interlocal Agreement.

### **Article 14. Conflicts of Interest**

No employee, officer or agent of the FUNDS RECIPIENT shall participate in selection, or in the award or administration of a contract supported by State funds, if a conflict of interest, real or apparent, would be involved:

- The employee, officer or agent.
- Any member of his immediate family.
- His or her partner.
- An organization which employs, or is about to employ any of the above.

Such a conflict arises when any of the above has a financial or other interest in the subcontractor selected. The officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subcontractors. To the extent permitted by State or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary actions for violation of such standards by the FUNDS RECIPIENT officers, employees, or agents, or by contractors or their agents as specified in the Uniform Grant Management Standards. The FUNDS RECIPIENT shall notify the NCTCOG immediately upon discovery of any potential or actual conflict of interest. The FUNDS RECIPIENT agrees that the NCTCOG and the TCEQ have sole discretion to determine whether a conflict of interest exists and that the NCTCOG may terminate this Interlocal Agreement at any time, on the grounds of actual or apparent conflict of interest.

The FUNDS RECIPIENT shall notify the NCTCOG in writing of any actual, apparent, or potential conflict of interest regarding any individual performing or having access to information regarding the services in question. As applicable, the notification shall include both organizational conflicts of interest and personal conflicts of interest. Any individual with a personal conflict of interest shall be disqualified from taking part in any way in the performance of any services that created the conflict of interest.

### **Article 15. Survival of Obligations**

All representations, indemnification's, warranties and guarantees made in, required by or given in accordance with this Interlocal Agreement, as well as all continuing obligations indicated in this agreement, will survive final payment, completion and acceptance of the service and termination or completion of the Interlocal Agreement.

### **Article 16. Contractual Costs**

The FUNDS RECIPIENT'S contractual costs must comply with allowable cost requirements. FUNDS RECIPIENTS who are governmental entities must engage in contractor selection on a competitive basis in accordance with their established policies. If the FUNDS RECIPIENT has no competitive procurement policy, the FUNDS RECIPIENT must generally select contractors by evaluation and

comparison of price, quality of goods or services and past performance. All sub-agreements/subcontracts awarded by the FUNDS RECIPIENT under this Interlocal Agreement shall be in accordance with the Uniform Grant Management Standards adopted by the Governor's Office of Budget and Planning.

#### **Article 17. Changes to Interlocal Agreement**

A Major Change will include one or more of the following:

- (1) An increase or decrease in the amount of compensation to the FUNDS RECIPIENT;
- (2) An extension or shortening of the term of the Agreement;
- (3) A significant change in the scope of the Agreement or the services to be performed; or
- (4) Any action that is beyond the authority of the Executive Director of the NCTCOG.

Implementation of a Major Change must be preceded by a formal written amendment to the agreement. The amendment must contain a description of the proposed change and shall be signed by persons authorized to bind each party in contract. Any amendment that exceeds the contractual authority of the Executive Director of NCTCOG also requires the consent, at Agenda, of a majority of the NCTCOG Executive Board.

Any proposed change that is not a Major Change may qualify as a Minor Change. A Minor Change shall require the written agreement of both Project Representatives but shall not require a formal amendment to the contract. A copy of the authorization must be retained in the appropriate file of both the FUNDS RECIPIENT and the NCTCOG.

If the FUNDS RECIPIENT requests a Minor Change and the Project Representative does not approve the request as a Minor Change, then the change shall be deemed a Major Change and the FUNDS RECIPIENT may only obtain authorization to proceed by a formal written amendment to this Interlocal Agreement.

#### **Article 18. Severability**

All parties agree that should any provision of this Interlocal Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Interlocal Agreement, which shall continue in full force and effect.

#### **Article 19. Intellectual Property**

For the purpose of this Article, "intellectual property" refers to:

- Any discovery or invention for which patent rights may be acquired;
- Any photographs, graphic designs, plans, drawings, specifications, computer programs, technical reports, operating manuals, or other copyrightable materials; and;
- Any other materials for which intellectual property rights may be obtained.

If the FUNDS RECIPIENT first conceives of, actually puts into practice, discovers, invents, or produces any intellectual property during the course of its work under this Agreement, it shall report that fact to the NCTCOG.

The FUNDS RECIPIENT may obtain governmental protection for rights in the intellectual property. However, the NCTCOG hereby reserves a nonexclusive, royalty-free and irrevocable license to use, publish, or reproduce the intellectual property for sale or otherwise, and to authorize others to do so. The NCTCOG also reserves a royalty-free nonexclusive, and irrevocable license to use, publish, or

reproduce for sale or otherwise, and to authorize others to use, publish, or reproduce, for sale or otherwise (to the extent consistent with the rights of third parties) any intellectual property for which the FUNDS RECIPIENT obtains rights with funds received under this Interlocal Agreement.

In performing work under this Interlocal Agreement, the FUNDS RECIPIENT shall comply with all laws, rules and regulations relating to intellectual property, and shall not infringe on any third party's intellectual property rights. It shall hold the NCTCOG harmless for, and to the extent permitted by the laws and Constitution of the State of Texas, defend and indemnify the NCTCOG against, any claims for infringement related to its work under this Agreement.

The FUNDS RECIPIENT expressly acknowledges that persons with visual impairments may not expend state funds in connection with the purchase of an automated information system unless that system meets certain statutory requirements under §2157.005 of the Government Code, relating to accessibility. Accordingly, the FUNDS RECIPIENT represents and warrants to the NCTCOG that the technology provided to the NCTCOG for purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of (1) providing equivalent access for effective use by both visual and nonvisual means; (2) presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and (3) being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this paragraph, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assertive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating displays, and customizable display appearances.

#### **Article 20. Correspondence**

All project related notices, reports and other contractual communications under this Interlocal Agreement shall be sent to the NCTCOG Project Representative as specified under Attachment D, Article 17. All such communications shall be considered duly given if hand delivered; delivered by nationally recognized courier service, or mailed by certified or registered mail, return receipt requested. All such communications shall be deemed given when received, as evidenced by the signed acknowledgment of receipt by the recipient; the confirmation of delivery by the courier service; or the receipt returned by the sender.

#### **Article 21. Data and Publicity**

All data and other information developed under this Interlocal Agreement shall be furnished to the NCTCOG and shall be public data and information, with exception to the extent it is exempt from public access by the Texas Open Records/Public Information Act, Vernon's TEX. GOV'T CODE § 552. Upon termination of this Agreement, all data and information shall become the joint property of the NCTCOG and the FUNDS RECIPIENT.

#### **Article 22. Assignability**

This Interlocal Agreement is not transferable or otherwise assignable by the FUNDS RECIPIENT without the written consent of the NCTCOG. Any attempted transfer is void without the written consent of the NCTCOG.

### **Article 23. Sub-agreements and Subcontracts**

All contractual expenditures using funds provided under this Interlocal Agreement shall meet UGCMA, and all procurement laws, applicable to the FUNDS RECIPIENT and subcontractor, including the Professional Services Procurement Act. Note that the Common Rule of OMB Circular A-102, as adopted in the UGCMA, precludes the use of the cost plus a percentage of cost method of contracting.

Any subcontractor acquired by the FUNDS RECIPIENT in connection with the services covered by this Interlocal Agreement will be limited to such individuals or firms, scope of work, and budget amounts as are specifically (1) identified herein; or as (2) approved by the NCTCOG during the performance of this Interlocal Agreement prior to execution of a contract with the subcontractor. Any substitution in such subcontractor, the scope of work, and budget amounts will be subject to the prior written approval of the NCTCOG.

The FUNDS RECIPIENT shall be responsible for the management and fiscal monitoring of all subcontractors. The FUNDS RECIPIENT shall ensure that all subcontractors comply with Article 10, Access/Examination of Records and all other provisions required by this Interlocal Agreement. The NCTCOG reserves the right to perform an independent audit of all subcontractors.

Funds provided by the NCTCOG pursuant to this Interlocal Agreement that are paid to the subcontractor shall be used by the subcontractor solely to satisfy the purposes of this Interlocal Agreement.

### **Article 24. Supplemental Funding Standards**

In addition to the standards set forth in applicable laws and regulations, the standards outlined below apply to all uses of the funds provided under this Interlocal Agreement including the implementation projects awarded funds by the FUNDS RECIPIENT. Unless authorization is otherwise specifically provided for in or under the terms of this Interlocal Agreement, the use of funds provided under this Interlocal Agreement, to include funds provided for pass-through grants, shall be in accordance with the supplemental funding standards set forth in this Article.

Payment of Fees. Local and regional political subdivisions subject to the payment of state solid waste disposal fees and whose payments are in arrears are not eligible to receive grant funding.

Land Acquisition Costs. Funds provided under this Interlocal Agreement may not be used to acquire land or an interest in land.

Municipal Solid Waste-Related Programs Only. Funds provided under this Interlocal Agreement may not be used for programs dealing with wastes that are not considered municipal solid waste (MSW), including programs dealing with industrial or hazardous wastes.

Programs Solely Related to Collection of Certain Wastes. Funds provided under this Interlocal Agreement may not be used for programs and activities solely related to the management of automotive wastes, to include: scrap tires, used oil, oil filters, antifreeze, lead-acid batteries, or other similar wastes excluded from disposal in MSW landfills. Funds may also not be used for the processing of scrap tires, such as through the purchase of equipment to shred or split the tires. However, the collection of these materials may be included as part of a comprehensive household hazardous waste collection and management program, so long as that is not the sole intent of the program.

Activities Related to the Disposal of Municipal Solid Waste. Except as may be specifically authorized under an eligible project category, funds provided under this Interlocal Agreement may not be used for activities related to the disposal of municipal solid waste.

This restriction includes solid waste collection and transportation to a disposal facility; waste combustion (incineration or waste-to-energy); processing for reducing the volume of solid waste that is to be disposed of; any landfill-related facilities or activities. This also includes the closure and post-closure care of a landfill; or other activities and facilities associated with the ultimate disposal of municipal solid waste. This provision does not apply to activities specifically included under an authorized project category, to include landfill scales, citizens' collection stations, and small registered transfer stations.

Projects Requiring a TCEQ Permit. Funds may not be used for expenses related to projects or facilities that require a permit from the TCEQ and/or that are located within the boundaries of a permitted facility, including landfills, wastewater treatment plants, and other facilities. This provision, however, may be waived by the TCEQ, at its discretion, for otherwise eligible activities to be located at a closed permitted facility and/or for recycling activities that will take place within the boundaries of an open facility. Recycling activities that may qualify for such a waiver may include recyclables collection, composting, and land application of bio-solids for beneficial use. The applicant and/or the FUNDS RECIPIENT should request a preliminary determination from the TCEQ as to the eligibility of the project prior to consideration for funding.

Projects Requiring TCEQ Registration. Projects or facilities that require registration from the TCEQ, and which are otherwise eligible for funding, may be funded. However, the registration for the facility must be finally received before that project can be selected for funding.

Projects that Create a Competitive Advantage Over Private Industry. In accordance with §361.014(b) of the Texas Health and Safety Code, a project or service funded under this Interlocal Agreement must promote cooperation between public and private entities and may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services. Under this definition, the term private industry includes non-profit entities.

Supplanting Existing Funds. Funds provided under this Interlocal Agreement may not be used to supplant existing funds. In particular, staff positions where the functions assigned to that position will remain the same and that were active at the time of the project application, and were funded from a source other than a previous solid waste project, are not eligible for project funding. This provision does not apply to the salaries for staff of the FUNDS RECIPIENT in its conduct of activities under this Interlocal Agreement.

Food/Entertainment Expenses. Funds provided under this Interlocal Agreement may not be used for food or entertainment expenses, including refreshments at meetings and other functions. This provision does not apply to authorized employee per diem expenses for food costs incurred while on travel status.

Use of Alcoholic Beverages. Funds provided under this Interlocal Agreement may not be used for payment of salaries to any employee who uses alcoholic beverages on active duty. None of these funds may be used for the purchase of alcoholic beverages, including travel expenses reimbursed with these funds.

Funds to Law Enforcement Agencies. Funds provided under this Interlocal Agreement may not be provided to any law enforcement agency regulated by Chapter 415 of the Texas Government Code, unless the law enforcement agency is in compliance with all rules developed by the Commission on Law Enforcement Officer Standards and Education pursuant to Chapter 415 of the Texas Government Code, or the Commission on Law Enforcement Officer Standards and Education certifies that the requesting agency is in the process of achieving compliance with such rules.

**Article 26. Americans With Disabilities Act Requirements**

The FUNDS RECIPIENT shall comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101- 12213 (Pamphlet. 1995).

**Article 27. Employment Practices**

The FUNDS RECIPIENT agrees that in the performance of this Interlocal Agreement, it will not discriminate against any employee or applicant because of race, religion, color, sex, age, or national origin and it will comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60). The FUNDS RECIPIENT assures that no person will, on the grounds of race, creed, color, handicap, national origin, sex, political affiliation or beliefs, be excluded from, be denied the benefit of, or be subject to discrimination under any program or activity funded in whole or part under this Interlocal Agreement.

**Article 28. Statutes Relating to Nondiscrimination**

The FUNDS RECIPIENT shall comply with all applicable state and federal statutes relating to nondiscrimination that include, but are not limited to, those listed in the Uniform Grant Management Standards.

**Article 29. Utilization of Small, Minority, and Women's Business Enterprises**

The FUNDS RECIPIENT agrees that qualified Historically Underutilized Businesses shall have the maximum practicable opportunity to participate in the performance of this Interlocal Agreement.

**Article 30. Safety and Protection**

Where applicable, the FUNDS RECIPIENT shall be responsible for maintaining and supervising all necessary safety precautions and programs in connection with the work/services performed under this Interlocal Agreement.

**Article 31. Energy Efficiency Standards**

The FUNDS RECIPIENT is encouraged to follow standards and policies on energy efficiency contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (P. L. 94-163).

**Article 32. Force Majeure**

A force majeure event shall be defined to include governmental decrees or restraints, acts of God (except that rain, wind, flood or other natural phenomena normally expected for the locality shall not be construed as an act of God), work stoppages due to labor disputes or strikes, fires, explosions, epidemics, riots, war, rebellion, and sabotage.

Provided this Interlocal Agreement is still in force, and subject to the conditions below, if a delay or failure of performance by either party results from the occurrence of a force majeure event, the delay shall be excused and the time fixed for completion of the work extended by a period equivalent to the time lost because of the event if, and to the extent that:

- the delay or failure was beyond the control of the party affected and not due to its fault or negligence; and

- the delay or failure was not extended because of the affected party's failure to use all diligence to overcome the obstacle or to resume performance immediately after the obstacle was overcome.

No time extension shall be granted under this Article unless the party seeking relief has notified the other in writing within a reasonable time after commencement of the event, of the anticipated length and cause of the delay, the measures taken or to be taken to minimize the delay and the timetable by which the FUNDS RECIPIENT intends to implement these measures. The party seeking relief shall also give written notice of the ending of the event within a reasonable time after the event has ended.

The NCTCOG shall be responsible for costs related to a force majeure event, only if they are incurred by the FUNDS RECIPIENT after the prior written request by the NCTCOG Project Representative, to incur such costs. Neither NCTCOG nor the FUNDS RECIPIENT shall have, and both hereby waive, any claim whatever for any damages resulting from delays caused by force majeure events.

### **Article 33. Termination of Interlocal Agreement**

This Interlocal Agreement shall terminate upon full performance of all requirements contained herein, unless this Interlocal Agreement is amended in writing.

This agreement may be terminated in whole or in part in writing by either contracting party in the event of substantial failure by the other party to fulfill its obligation under this Interlocal Agreement through no fault of the terminating party, provided that no such termination may be effected unless the other party is given:

- Not less than ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to terminate; and an opportunity for consultation with the terminating party prior to termination.
- This Interlocal Agreement may be terminated in whole or in part in writing by NCTCOG for its convenience, provided that the FUNDS RECIPIENT is given not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate. Circumstances in which NCTCOG may terminate for convenience include, but are not limited to, the Texas Legislature's withdrawal of appropriations for this project or the FUNDS RECIPIENT'S continued or repeated failure to perform tasks and submit reports in a complete, correct and consistent manner.
- If termination for default of this Article, or for reduction or loss of Legislative appropriations of this Article is effected by NCTCOG, an adjustment in the Interlocal Agreement amount shall be made, but: no amount shall be allowed for anticipated profit on unperformed services, tasks or other work; and
- Any payment due the FUNDS RECIPIENT at the time of termination may be adjusted to the extent of any reasonable additional costs incurred by NCTCOG by reason of THE FUNDS RECIPIENT'S default. The equitable adjustment for any termination shall provide for payment to the FUNDS RECIPIENT for services rendered and expenses incurred by the FUNDS RECIPIENT relating to contracts entered into prior to the termination, in addition to termination settlement costs reasonably incurred by the FUNDS RECIPIENT relating to contracts entered into prior to the termination.

Upon receipt of a termination notice the FUNDS RECIPIENT shall promptly discontinue all services affected (unless the notice directs otherwise); and deliver or otherwise make available to NCTCOG all data, drawings, specifications, reports, estimates, summaries, and such other information, materials, and equipment as may have been accumulated by the FUNDS RECIPIENT in performing this Interlocal Agreement, whether completed or in progress.

Upon termination of this Interlocal Agreement, the NCTCOG may take over the work and prosecute the same to completion by agreement with another party or otherwise. If, after termination for failure of the FUNDS RECIPIENT to fulfill its contractual obligations, it is determined that the FUNDS RECIPIENT had not so failed, the termination shall be deemed to have been effected for the convenience of the NCTCOG.

If any delay or failure of performance is attributed to an event as defined in Force Majeure, the FUNDS RECIPIENT may in its sole discretion terminate this Interlocal Agreement in whole or in part. If such termination is effected, an equitable adjustment shall be made in accordance with this Article.

## DEFINITIONS

Wherever used in this Interlocal Agreement, the following terms have the meaning indicated which are applicable to both the singular and plural thereof. This list is not meant to be inclusive nor exclusive of all pertinent grant definitions:

**Accrued expenditures:** The charges incurred by the grantee during a given period requiring the provisions of funds for: (1) Goods and other tangible property received; (2) services performed by employees, contractors, subcontractors, and other payees, and (3) other amounts becoming owed under programs for which no current services or performance is required, such as annuities, insurance claims, and other business payments.

**Accrued income:** The sum of (1) earnings during a given period from services performed by the grantee and goods and other tangible property deliverable to purchasers; and (2) amounts becoming owed to the grantee for which no current services or performance is required by the grantee.

**Acquisition cost:** For equipment purchases, means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make that property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

**Addenda:** Written or graphic instruments issued prior to the execution of the Agreement which clarify, correct or change the Proposal Requirements or the Agreement.

**Administrative requirements:** Those matters common to grants in general, such as financial management, kinds and frequency of reports, and retention of records. These are distinguished from "programmatic" requirements, which concern matters that can be treated only on a program-by-program or grant-by-grant basis, such as kinds of activities that can be supported by grants under a particular program.

**Cash contribution:** The FUNDS RECIPIENT'S cash outlay, including the outlay of money contributed to the FUNDS RECIPIENT by other public agencies and institutions, and private legislation, federal funds received from other assistance Agreement may be considered as FUNDS RECIPIENT cash contributions.

**Common rule:** Part III of the Uniform Grant Management Standards, which were promulgated by the Texas Governor's Office of Budget and Planning pursuant to the Uniform Grant Conditions and Management Act, Texas Government Code Chapter 783.

**Contract Documents:** The Interlocal Agreement and the documents that are described in and incorporated into the Interlocal Agreement. Together, the Contract Documents form the contract between the parties.

**Contract Price:** The moneys payable by the NCTCOG to the FUNDS RECIPIENT for completion of the work in accordance with the Contract Documents as stated in the Interlocal Agreement (subject to the provisions included in the Interlocal Agreement).

**Contract Times:** The number of days or dates stated in the Interlocal Agreement to complete the work so that it is ready for final payment.

**Cost sharing or matching:** The value of the third party in-kind contributions and the portion of the costs of a State assisted project or program not borne by the State.

**Cost-type Contract:** A contract or subcontract under a grant in which the FUNDS RECIPIENT or subcontractor is paid on the basis of the costs it incurs, with or without a fee.

**Equipment:** Tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A FUNDS RECIPIENT may use its own definition of equipment provided that such definition would include all equipment defined above.

**Expiration Date of the Interlocal Agreement:** The date indicated in the Interlocal Agreement as the date that the Interlocal Agreement terminates (end date of the Interlocal Agreement).

**Financial Completion:** In the opinion of the Funding Agency (NCTCOG and TCEQ), the work as outlined in the Interlocal Agreement is complete.

**Funding Agency:** The Texas Commission on Environmental Quality through the North Central Texas Council of Governments.

**Government:** A Federal or State agency or a local government.

**Historically Underutilized Business (HUB):** As defined by Texas law and delineated in the State Purchasing and General Services Act, as amended September 1, 1995, a historically underutilized business as a corporation or a partnership in which fifty-one percent (51%) or more of the corporation's stock (or other equitable securities) or partnership's assets and interest are owned by one or more socially disadvantaged persons, who have a proportionate interest and actively participates in the corporation or partnership control, operation, and management. If the business is a sole proprietorship, the socially disadvantaged person must completely own, operate and control the business. Socially disadvantaged persons include members of certain groups including African Americans, Hispanic Americans, American Women, Asian Pacific Americans, and Native Americans.

**Intellectual Property:** (1) any and all inventories, discoveries, improvements, or creations for which copyright, trade secret, patent or other proprietary rights may be acquired, (2) any photographs, graphic designs, plans, drawings, specifications, computer programs, computer files, documentation, technical reports, operating manuals, or other copyrightable materials, and (3) any other work fixed in any tangible medium of expression which can be perceived, reproduced, or otherwise communicated for which copyright, trade secret, patent or other proprietary rights may be acquired.

**Intellectual Property Rights:** Patents, trademarks, trade secret rights, confidential information rights or any other proprietary rights to which a person may be entitled or may actually possess. Intellectual Property Rights include all rights of ownership and original authorship throughout the world.

**Interlocal Agreement:** The "NCTCOG Interlocal Agreement" which contains the salient terms of the Agreement between the FUNDS RECIPIENT and the NCTCOG and covers the work to be performed; also describes and includes any additional agreement documents which may be attached to the Interlocal Agreement and made a part thereof as provided therein.

**Laws and Regulations:** Any and all applicable laws, rules, regulations, ordinances, codes and other orders of any and all governmental bodies, agencies, authorities and courts having jurisdiction.

**Liens:** Charges, security interests, liens or encumbrances upon real property or personal property.

**Local government:** Local and regional political subdivisions located within the State of Texas. The meaning is broadened to include eligible recipients of solid waste pass-through grant funds: Cities; Counties; Public Schools and School Districts (excluding Universities or post secondary educational institutions); Other general and special law districts created in accordance with State law, and with the authority and responsibility for water quality protection or municipal solid waste management, to include river authorities.

**Minor Change:** A written document which provides for minor changes in the work to be performed under the Interlocal Agreement, but does not involve a change in the contract price or the contract times.

**Obligations:** The amount of orders placed, contracts and sub-grants awarded, goods and services rendered, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

**Outlay (expenditures):** Charges made to the project or program. Outlays may be reported on a cash or accruals basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursement for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the amount of cash advances and payments made to FUNDS RECIPIENT. For reports prepared on an accrued expenditure basis, outlays are the sums of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the grantee for goods and other property received, for services performed by employees, contractors, subcontractors, and other payees, and other amounts becoming owed under programs for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments.

**Percentage of completion method:** A system under which payments are made for work according to the percentage of the completed work, rather than to the FUNDS RECIPIENT 's cost incurred.

**Prior Approval:** Documentation evidencing consent prior to incurring specific costs.

**Project:** The total body of services rendered of which the work to be provided under the Interlocal Agreement may be the whole, or a part as indicated elsewhere in the Interlocal Agreement.

**Project Representative:** The individual who is authorized to execute the work program identified in the Interlocal Agreement. This individual must be an employee of the grant recipient and may or may not have contractual authority.

**Real Property:** Land, including land improvements, structures and appurtenances thereto, excluding moveable machinery and equipment.

**Share:** When referring to the TCEQ's portion of real property, equipment or supplies, means the same percentage as the TCEQ's portion of the acquiring party's total costs under the grant to which the acquisition cost of the property was charged. Only costs are to be counted, not the value of the third-party in-kind contributions.

**Standards:** The Uniform Grant Management Standards.

**State:** The State of Texas.

**Subcontractor:** An individual, firm, corporation or local government having a direct contract with the FUNDS RECIPIENT or with any other subcontractor for the performance of a part of the work identified in the Interlocal Agreement.

**Supplies:** Generally relates to the routine purchase of office supplies (paper, pencils, staples, etc.) or other goods that are consumed in a relatively short period of time in the regular performance of general office activities.

**Suspension:** (1) temporary withdrawal of the authority to obligate project funds pending corrective action by the FUNDS RECIPIENT, or sub-grantee or a decision to terminate the grant, or (2) an action taken by a FUNDING AGENCY official in accordance with the Interlocal Agreement, State or Federal law, or Regulations to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.

**Termination:** Permanent withdrawal of the authority to obligate previously-awarded project funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the FUNDS RECIPIENT or sub-grantee. "Termination" does not include (1) withdrawal of funds awarded on the basis of the FUND RECIPIENT'S underestimate of the unobligated balance in a prior period; (2) withdrawal of the unobligated balance as of the expiration of a grant; (3) refusal to extend a grant or award additional funds to make a competing or noncompeting continuation, renewal, extension or supplemental award; or (4) voiding of a grant upon determination that the award was obtained fraudulently or was otherwise illegal or invalid from inception.

**Unliquidated Obligations:** For reports prepared on a cash basis, means the amount of obligations incurred by the FUNDS RECIPIENT that has not been paid. Reports prepared on an accrued expenditure basis represent the amount of obligations incurred by the FUNDS RECIPIENT for which an outlay has not been recorded.

**Unobligated Balance:** The portion of the funds authorized by the FUNDING AGENCY that has not been obligated by the FUNDS RECIPIENT, and is determined by deducting the cumulative obligation from the cumulative funds authorized.

**Work:** The entire completed services or the various separately identifiable parts thereof required to be furnished under this Interlocal Agreement. Work includes and is the result of performing or furnishing labor, services, materials or equipment as required by the Interlocal Agreement.

## Appendices

*(Each form is not required for every project. Please use only those forms that are applicable to your specific grant.)*

### I. SUMMARY/RESULTS REPORT OF IMPLEMENTATION PROJECT

- STATUS OF COMPLETION OF WORK TASKS
- PROJECT RESULTS REPORT
  - FORM 10a: LOCAL ENFORCEMENT
  - FORM 10b: LITTER/ILLEGAL DUMPING CLEANUP AND COMMUNITY COLLECTION EVENTS
  - FORM 10c: SOURCE REDUCTION/RECYCLING**
  - FORM 10d: LOCAL SOLID WASTE MANAGEMENT PLANS
  - FORM 10e: CITIZENS COLLECTION STATIONS, SMALL REGISTERED TRANSFER STATIONS
  - FORM 10f: HOUSEHOLD HAZARDOUS WASTE
  - FORM 10g: TECHNICAL STUDIES
  - FORM 10h: EDUCATIONAL AND TRAINING PROJECTS

### II. REIMBURSEMENT FORMS (Form PT-F 2 plus Supplemental Forms)

- Request for Reimbursement Form and Supplemental Reimbursement Forms

PT-F2 Summary of Pass-Through Project Expenditures

**F2-A Itemization of Personnel/Salaries and Travel budget categories**

**F2-B Itemization of Equipment and Contractual Costs**

F2-C Itemization of Construction Budget category

**F2-D Itemization of Supplies and the Other Expenditures**

**F2-E Itemization of In-kind Services and/or Cash Contributions**

### III. REQUEST FOR BUDGET REVISION FORM

### IV. EXAMPLE of RELEASE OF CLAIMS

These forms are located at the following website:

[http://www.nctcog.org/envir/SEELT/funding/report\\_forms.asp](http://www.nctcog.org/envir/SEELT/funding/report_forms.asp)



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/08/10		
Department:		Sustainability & Environmental Services		
Department Head		Nancy Nevil		
Agenda Coordinator (include phone #): <b>Becky Morales x4324</b>				
<b>CAPTION</b>				
<p>A resolution of the City Council of the City of Plano, Texas, authorizing the City to enter into an agreement with the Texas Product Stewardship Council to become a member, and to promote and support the shift of disposal cost from the local government to the producer through state legislation; authorizing its execution by the City Manager or, his authorized designee; and providing an effective date.</p>				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: <b>09/10</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	<b>0</b>
Encumbered/Expended Amount	0	0	0	<b>0</b>
This Item	0	0	0	<b>0</b>
<b>BALANCE</b>	0	0	0	<b>0</b>
<b>FUND(S):     GENERAL FUND</b>				
<b>COMMENTS:</b> There is no financial impact associated with this item.				
STRATEGIC PLAN GOAL: Mitigation of discarded products relates to the City's Goal of a "Financially Strong City with Service Excellence".				
<b>SUMMARY OF ITEM</b>				
<p>The Sustainability &amp; Environmental Services Department recommends that the City of Plano adopt a resolution authorizing the City to become a member of the Texas Product Stewardship Council (TPSC) and participate in activities to promote and advocate towards state legislation to shift the managing of disposal cost from local government to the producer consistent with the Extended Producer Responsibility approach. This will result in an incentive for the manufacturers to design products with safer materials that can be reused or recycled. Other than staff time, there is no fee to join this membership.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Texas Product Stewardship Council Letter of Agreement				

**A resolution of the City Council of the City of Plano, Texas, authorizing the City to enter into an agreement with the Texas Product Stewardship Council to become a member, and to promote and support the shift of disposal cost from the local government to the producer through state legislation; authorizing its execution by the City Manager or, his authorized designee; and providing an effective date.**

**WHEREAS**, on September 11, 2006, the City Council of the City of Plano enacted Resolution No. 2006-9-8(R) supporting the State legislation requiring electronic and computer manufacturers to participate in Takeback Recycling Programs, which was formalized in 2007 with the passage of HB 2714; and

**WHEREAS**, state policies currently make local governments responsible for waste management; and

**WHEREAS**, approximately 195,231.6 tons of discarded materials and products are currently sent to disposal from our community on an annual basis at a cost of \$39.79 per ton; and

**WHEREAS**, manufactured goods and packaging constitute approximately 75% of the materials managed by the City of Plano, based on figures reported by the U.S. Environmental Protection Agency; and

**WHEREAS**, local governments have no input on the design of the products, make no profit from the products, and do not have the resources to adequately address the rising volume of discarded products; and

**WHEREAS**, it is anticipated that the list of waste products intended for disposal, some of which are hazardous, will continue to grow; and

**WHEREAS**, there are significant environmental and human health impacts associated with improper management of non-hazardous and hazardous products; and

**WHEREAS**, costs paid by local governments to manage products are in effect subsidies to the producers of such products and products designed for disposal; and

**WHEREAS**, Extended Producer Responsibility (EPR) is a policy approach in which producers assume responsibility for management of non-hazardous and hazardous waste products and which has been shown to be effective; and

**WHEREAS**, when producers are responsible for ensuring their products are reused or recycled responsibly, and when health and environmental costs are included in the product price, there is an incentive to design products that are more durable, easier to repair and recycle, and less toxic; and

**WHEREAS**, EPR framework legislation establishes transparent and fair principles and procedures for applying EPR to categories of products for which improved design and management infrastructure is in the public interest; and

**WHEREAS**, the Texas Product Stewardship Council (TXPSC) is an organization of Texas local governments working to speak with one voice in promoting transparent and fair EPR systems in Texas; and

**WHEREAS**, on March 31, 2008, the City of Plano incorporated EPR principals through establishing City Policy No. 330.006 Environmental Purchasing Policy into its product procurement practices to minimize waste, encourage recycling, reduce costs and protect the environment;

**NOW, THEREFORE BE IT RESOLVED THE FOLLOWING:**

1. The City of Plano urges the Texas Commission on Environmental Quality (TCEQ) and State Legislators to support legislation, policies and programs on Extended Producer Responsibility; and

2. The City of Plano supports the formation of a Texas Product Stewardship Council as an organization of Texas local governments working to speak with one voice in advocating transparent and fair EPR systems in Texas to shift waste management costs from local government to the producers of the product, and which will give producers the incentive to redesign products to make them less toxic and easier to reuse and recycle; and

3. The City of Plano will execute the attached letter of agreement marked as Exhibit "A" to actively support the goals of Texas Product Stewardship Council, and

4. The City of Plano encourages all manufacturers to share in the responsibility for eliminating waste through minimizing excess packaging, designing products for durability, reusability and the ability to be recycled; using recycled materials in the manufacture of new products; and providing financial support for collection, processing, recycling, or disposal of used materials.

**DULY PASSED AND APPROVED** this the 8<sup>th</sup> day of February, 2010.

\_\_\_\_\_  
Phil Dyer, MAYOR

ATTEST:

\_\_\_\_\_  
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY



Exhibit "A"

## TEXAS PRODUCT STEWARDSHIP COUNCIL

# Letter of Agreement

### MISSION STATEMENT

To shift Texas' product waste management system from one focused on government funded and ratepayer financed waste diversion to one that relies on Product Stewardship in order to reduce public costs and drive improvements in product design that promote environmental sustainability.

### DEFINITION OF PRODUCT STEWARDSHIP

Product Stewardship, or Extended Producer Responsibility (EPR), is a product-centered approach to environmental protection that calls on all those in the product life cycle – designers, manufacturers, retailers, servicers, resellers, disposers, disassemblers, users and waste managers – to share the responsibility and costs for reducing the adverse environmental impacts of products.

The greatest responsibility lies with the producers who have the most ability to affect the life cycle environmental impacts of the product through product design and marketing. Product stewardship holds producers liable for the costs of responsibly managing their products at end of life.

### OBJECTIVES

The Texas Product Stewardship Council works to integrate the principles of product stewardship into the policy and economic structures of Texas. The objectives of the TXPSC are to:

1. Provide effective leadership on product stewardship initiatives in the state of Texas.
2. Educate elected officials and other decision makers on the benefits of product stewardship.
3. Develop and recommend product stewardship policies and educational tools to organizations, institutions, governments, the Texas state legislature and legislators.
4. Coordinate or participate in product stewardship initiatives locally, regionally and nationally.
5. Provide a forum for the exchange of information regarding existing and proposed EPR programs.

### ORGANIZATION

TXPSC will operate initially (while investigating formation of a 501(c)(3) organization) as an unincorporated association and will be comprised of a General Council and Steering Committee.

**Associate Members:** Members of the TXPSC (General Council) consist of cities, counties or other local government bodies that:

- a) Provide funding and/or staff time to TXPSC activities and projects and commit staff time to attend TXPSC meetings.

## TEXAS PRODUCT STEWARDSHIP COUNCIL

- b) Agree with and supports the TXPSC Mission and Objectives.
- c) Agree with the Mission of the TXPSC and the Framework Principles for Product Stewardship Policy (*see Appendix*)

**Steering Committee Members:** Members of the TXPSC Steering Committee make up the voting member body of the Council. The steering committee is limited to 15 people who represent local governments. Each local government represented on the Steering Committee will provide one official representative and receives one vote for decision-making purposes. Steering committee members must:

- a) Provide funding and/or staff time to TXPSC activities and projects and commit staff time to attend TXPSC meetings and
- b) Sign this Letter of Agreement.

Voting members will be accepted at the beginning of each year, or at other times as agreed upon by the Steering Committee. Voting members shall be added to the formal list of members in the Letter of Agreement initially and at the beginning of each calendar year.

Nominations to the Steering Committee can be in the form of self-nomination or nomination of another council member. Steering Committee Members will be elected openly by the Steering Committee unless there are more nominees than vacancies, in which case the Chair will take a paper ballot vote.

### **Roles and Responsibilities of Steering Committee Members**

The Steering Committee provides leadership to the Council, develops and recommends product stewardship policy, facilitates coordination with other product stewardship activities and broadly publicizes the concept of product stewardship. Steering Committee members will prepare a scope of work and budget at the beginning of each year.

**Meetings:** Steering Committee members will attend and participate (in person or by phone) in TXPSC Steering Committee meetings that are held at least monthly. In cases where steering committee members cannot attend the meetings, they should notify the Council Chair. Steering Committee members must participate in at least half the meetings held the previous year to retain standing on the Steering Committee. TXPSC meeting agendas are sent out for Steering Committee review in advance. All Steering Committee members shall review meeting minutes that are sent out after each meeting.

**Projects:** Propose, review, approve and participate in activities and projects conducted in the name of TXPSC.

**Decision Making:** The Steering Committee makes decisions by consensus. If consensus cannot be reached, a decision will be made by majority vote. Each Steering Committee Member will have one vote.

**Chairperson:** A Steering Committee chair will be elected at the beginning of each year. The Chair will represent TXPSC on general correspondence and communications. The Chairperson will coordinate the Steering Committee, assist Subcommittees, prepare agendas,

## TEXAS PRODUCT STEWARDSHIP COUNCIL

convene meetings, record and disseminate meeting summaries, respond to inquiries, and initiate and shepherd TXPSC related projects.

**Other Officers:** At the discretion of the Steering Committee other officers maybe appointed and these positions usually consist of a vice-chair, secretary and treasurer as needed.

**Executive Subcommittee:** The Steering Committee may set up and delegate budget, administrative and related planning matters to an Executive Subcommittee. The Executive Subcommittee will normally consist of the appointed Officers. Once budgets and work plans are approved by the full Steering Committee, the Executive Subcommittee may authorize expenditures within the approved budget. Steering Committee input will be solicited on all substantive matters. On funding and policy decisions requiring immediate turnaround that cannot wait until the next full steering committee meeting, the Executive Subcommittee will set up a conference call, or solicit input by email from the steering committee.

**PARTNERS:** Partners are stakeholders (individuals or organizations other than local governments) that wish to be kept apprised of TXPSC initiatives through periodic email alerts, periodically attend TXPSC meetings and may participate in project subcommittee work. Any individual or non-local government organization that agrees with the Mission of the TXPSC and the Framework Principles (*Appendix A*) by signing a pledge is invited to be a Partner. Partners are non-voting participants but they can express their opinions or state their positions.

**SUPPORTERS:** Supporters are stakeholders (individuals or organizations) that wish to be kept apprised of TXPSC initiatives through periodic email alerts, periodically attend TXPSC meetings and may participate in project subcommittee work. Any individual or organization that supports the TXPSC mission is invited to be a Supporter.

**PROJECT SUBCOMMITTEES:** Project Subcommittees are comprised of representatives from government, businesses and nonprofit groups that focus their work on managing specific commodities or materials (such as mercury-containing products, electronic equipment or batteries) to encourage product stewardship within that particular sector, or that focus on cross-cutting issues or functions that advance the mission of the Council (such as education, purchasing policies, local initiatives, or framework legislation). Project Subcommittees will be coordinated by Steering Committee members. Subcommittees will meet independently of the Steering Committee and will provide updates on their activities and recommendations at regularly held Council meetings for review and action, if required.

## FUNDING

Projects and activities that are conducted on behalf of the council may be funded directly by the participating agencies as appropriate. The Steering Committee may seek additional funding for project work, such as conferences, through grants and contributions.

## TEXAS PRODUCT STEWARDSHIP COUNCIL

### LOGOS AND CREDITS

The TXPSC logos and name shall be copyrighted and owned by TXPSC. Use of the name and logo shall be exclusively for official organization business unless licensed to Partners or other agencies for outside use.

All projects undertaken on behalf of the TXPSC shall use the TXPSC logo on project materials.

General Correspondence: The TXPSC name and logo will be used on all general correspondence. "Official" TXPSC letterhead will be used. The Council Chair (or in his/her absence the Vice Chair) will sign letters.

Project Materials: All materials developed in coordination with and on behalf of the TXPSC shall display the TXPSC logo and mission statement or an approved Tagline that synthesizes the Mission statement.

Agencies that fund a portion of specific projects and materials on behalf of the TXPSC will be credited using the following language (agency logos may also be displayed):  
This product was funded by agency and agency, members of the TXPSC.

### LETTER OF AGREEMENT

This Letter of Agreement shall be reviewed and revised as necessary at the beginning of each calendar year by the Steering Committee. New members to the Steering Committee may be added at this time. Letters of Agreement will be signed by the appropriate representative of each government entity participating on the Steering Committee.

Signed:

---

Signature

---

Name, Title Date

---

Organization

*Appendix: Framework Principles for Product Stewardship Policy*

# TEXAS PRODUCT STEWARDSHIP COUNCIL

## APPENDIX

# Framework Principles for Product Stewardship Policy

The following principles are intended to guide development of product stewardship policies and legislation that governs multiple products. It is primarily aimed at state legislation but is also intended as a guide for local and federal policy.

## 1. Producer Responsibility

- 1.1 All producers selling a covered product into the State are responsible for designing managing, and financing a stewardship program that addresses the lifecycle impacts of their products including end-of-life management.
- 1.2 Producers have flexibility to meet these responsibilities by offering their own plan or participating in a plan with others.
- 1.3 In addressing end-of-life management, all stewardship programs must finance the collection, transportation, and responsible reuse, recycling or disposition of covered products. Stewardship programs must:
  - Cover the costs of new, historic and orphan covered products.
  - Provide convenient collection for consumers throughout the State.
- 1.4 Costs for product waste management are shifted from taxpayers and ratepayers to producers and users.
- 1.5 Programs are operated by producers with minimum government involvement.

## 2. Shared Responsibilities

- 2.1 Retailers only sell covered products from producers who are in compliance with stewardship requirements.
- 2.2 State and local governments work with producers and retailers on educating the public about the stewardship programs.
- 2.3 Consumers are responsible for using return systems set up by producers or their agents.

## 3. Governance

- 3.1 Government sets goals and performance standards following consultation with stakeholders. All programs within a product category are accountable to the same goals and performance standards.

## TEXAS PRODUCT STEWARDSHIP COUNCIL

- 3.2 Government allows producers the flexibility to determine the most cost effective means of achieving the goals and performance standards.
- 3.3 Government is responsible for ensuring a level playing field by enforcing requirements that all producers in a product category participate in a stewardship program as a condition for selling their product in the jurisdiction.
- 3.4 Product categories required to have stewardship programs are selected using the process and priorities set out in framework legislation.
- 3.5 Government is responsible for ensuring transparency and accountability of stewardship programs. Producers are accountable to both government and consumers for disclosing environmental outcomes.

### 4. Financing

- 4.1 Producers finance their stewardship programs as a general cost of doing business, through cost internalization or by recovering costs through arrangements with their distributors and retailers. End of life fees are not allowed.

### 5. Environmental Protection

- 5.1 Framework legislation should address environmental product design, including source reduction, recyclability and reducing toxicity of covered products.
- 5.2 Framework legislation requires that stewardship programs ensure that all products covered by the stewardship program are managed in an environmentally sound manner.
- 5.3 Stewardship programs must be consistent with other State sustainability legislation, including those that address greenhouse gas reduction and the waste management hierarchy.
- 5.4 Stewardship programs include reporting on the final disposition, (i.e., reuse, recycling, disposal) of products handled by the stewardship program, including any products or materials exported for processing.

Northwest Product Stewardship Council [www.productstewardship.net](http://www.productstewardship.net) Adopted May 19, 2008  
California Product Stewardship Council [www.calpsc.org](http://www.calpsc.org) Adopted June 4, 2008  
Vermont Product Stewardship Council [www.vtpsc.org](http://www.vtpsc.org) Adopted November 6, 2008  
British Columbia Product Stewardship Council [www.bcproductstewardship.org](http://www.bcproductstewardship.org) Adopted Dec. 9, 2008  
Texas Product Stewardship Council [www.txpsc.org](http://www.txpsc.org) Adopted January 30, 2009  
NYS Assoc. for Solid Waste Management [www.newyorkwaste.org](http://www.newyorkwaste.org) Adopted March 11, 2009  
Developed with support from **Product Policy Institute** [www.productpolicy.org](http://www.productpolicy.org)



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/08/2010		
Department:		Planning		
Department Head		P. Jarrell		
Agenda Coordinator (include phone #): <b>T. Stuckey -- 7156</b>				
<b>CAPTION</b>				
<p>An Ordinance of the City of Plano, Texas, amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended; thereby rescinding a portion of Heritage Resource Designation No. H-05 on a 0.1± acre of land out of the Joseph Klepper Survey, Abstract No. 213, located on the west side of K Avenue, 355± feet south of 18th Street, situated in the City of Plano, Collin County, Texas; presently zoned Downtown Business/Government with Heritage Resource Designation H-05; directing a change accordingly in the official Zoning Map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.</p>				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	<b>0</b>
Encumbered/Expended Amount	0	0	0	<b>0</b>
This Item	0	0	0	<b>0</b>
BALANCE	0	0	0	<b>0</b>
<b>FUND(S):</b>				
<b>COMMENTS:</b> This item has no fiscal impact.				
<b>SUMMARY OF ITEM</b>				
<p>The City Council approved Zoning Case 2009-24 rescinding a portion of Heritage Resource Designation No. H-05 at its January 25, 2009, meeting by a vote of 7-0. This ordinance finalizes the zoning action.</p>				
List of Supporting Documents: Ordinance			Other Departments, Boards, Commissions or Agencies	

**(Zoning Case 2009-24)**

**An Ordinance of the City of Plano, Texas, amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended; thereby rescinding a portion of Heritage Resource Designation No. H-05 on a 0.1± acre of land out of the Joseph Klepper Survey, Abstract No. 213, located on the west side of K Avenue, 355± feet south of 18th Street, situated in the City of Plano, Collin County, Texas; presently zoned Downtown Business/Government with Heritage Resource Designation H-05; directing a change accordingly in the official Zoning Map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.**

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 25th day of January, 2010, for the purpose of considering a change in the Zoning Ordinance; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the Heritage Commission considered this item on the 27th day of October, 2009, and recommended approval; and

**WHEREAS**, the Planning & Zoning Commission considered this item on the 4th day of January, 2010, and recommended approval; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 25th day of January, 2010; and

**WHEREAS**, the City Council is of the opinion and finds that such change would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to rescind a portion of

the Heritage Resource Designation No. H-05 on a 0.1± acre of land out of the Joseph Klepper Survey, Abstract No. 213, located on the west side of K Avenue, 355± feet south of 18th Street in the City of Plano, Collin County, Texas, presently zoned Downtown Business/Government with Heritage Resource Designation No. H-05, said property more fully described on the legal description in Exhibit "A" attached hereto.

**Section II.** That Heritage Resource Designation H-05 shall remain on Lot 6R, Block 2, of Original Donation, an addition to the City of Plano, Texas according to the map or plat thereof recorded in Volume 2010, Page 20 of the Plat Records of Collin County, Texas as filed January 22, 2010, comprising 0.537± acres.

**Section III.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section IV.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section V.** Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VI.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 8TH DAY OF FEBRUARY, 2010.**

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Phil Dyer, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY

LEGAL DESCRIPTION  
ZONING CASE 2009-24

SITUATED in the State of Texas, County of Collin, and City of Plano, being part of the Joseph Klepper Survey, Abstract No. 213, being part of Lot 6, Block 2, Original Donation to the City of Plano and the same property owned by Workman as recorded under County Clerk No. 92-0023748 of the Collin County Land Records with said premises being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found marking the northwest corner of said Workman property, said Lot 6, the most westerly southwest corner of Squiric Brothers property as recorded under County Clerk No. 98-0038787 of the Collin County Land Records and being in the east line of Fred Lauten's property as recorded in Volume 1926, Page 109 of the Collin County Land Records;

THENCE with a common line between said Workman property and Squiric's property as follows: South 87° 01' 06" East, 64.95 feet to a Roome capped iron rod set; South 02° 28' 02" West, 30.00 feet to a Roome capped iron rod set; South 88° 33' 37" East, 125.00 feet to a Roome capped iron rod set in the west right-of-way line of "K" Avenue marking the northeast corner of Workman's property and the southeast corner of Squiric's property;

THENCE with the west right-of-way line of "K" Avenue and the east line of Workman's property, South 04° 17' 19" East, 4.78 feet to a Roome capped iron rod set marking the southeast corner of the herein described premises from which a capped iron rod found for reference bears South 04° 17' 19" East, 126.83 feet;

THENCE departing said right-of-way line, along the south line of said premises and the southerly overhang of an existing one story frame building, North 88° 05' 41" West, 190.15 feet to a Roome capped iron rod set marking the southwest corner of said premises in the west line of Workman's property, said Lot 6 and the east line of the aforementioned Lauten property;

THENCE with the west line of Workman's property, Lot 6, the east line of Lauten's property and the west line of said premises, North 01° 54' 25" East, 34.95 feet to the POINT OF BEGINNING and CONTAINING 2,756 square feet or 0.063 acre of land.





**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/08/10		
Department:		Sustainability & Environmental Services		
Department Head		Nancy Nevil		
Agenda Coordinator (include phone #): <b>Tiffany Stephens x4264</b>				
<b>CAPTION</b>				
<p><b>A resolution of the City Council of the City of Plano, Texas, adopting a Water Management Plan for the City of Plano, Texas, to promote responsible use of water and to provide for best management practices resulting in on-going, long-term water savings, authorizing its execution by the City Manager or, his authorized designee; and providing an effective date.</b></p>				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: <b>09/10</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	<b>0</b>
Encumbered/Expended Amount	0	0	0	<b>0</b>
This Item	0	0	0	<b>0</b>
<b>BALANCE</b>	0	0	0	<b>0</b>
<b>FUND(S):    GENERAL FUND</b>				
<b>COMMENTS:</b> There is no financial impact associate with this item.				
STRATEGIC PLAN GOAL: Managing natural resources relates to the City's Goal of a "Financially Strong City with Service Excellence."				
<b>SUMMARY OF ITEM</b>				
The Texas Commission on Environmental Quality requires each municipality develop a water conservation plan and the Texas Administrative Code, Title 30, Part I, Chapter 288, Subchapter A establishes minimum requirements of the plan.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Cover Memo				
Water Management Plan				

**A resolution of the City Council of the City of Plano, Texas, adopting a Water Management Plan for the City of Plano, Texas, to promote responsible use of water and to provide for best management practices resulting in on-going, long-term water savings, authorizing its execution by the City Manager or, his authorized designee; and providing an effective date.**

**WHEREAS**, the City of Plano, Texas (the "City"), recognizes that the amount of water available to its water customers is limited; and

**WHEREAS**, the City recognizes that due to natural limitations, drought conditions, system failures and other acts of God which may occur, the City cannot guarantee an uninterrupted water supply for all purposes at all times; and

**WHEREAS**, the Water Code and the regulations of the Texas Commission on Environmental Quality (the "Commission") require that the City adopt a Water Management Plan; and

**WHEREAS**, the City has determined at need in the best interest of the public to adopt a Water Management Plan; and

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO THAT:**

**Section I.** The City Council hereby approves and adopts the City of Plano Water Management Plan, attached hereto as Addendum A, as if recited verbatim herein.

**Section II.** The City Manager is authorized to execute any and all documents or take any action necessary to maintain the Water Management Plan.

**DULY PASSED AND APPROVED** this the 8<sup>th</sup> day of February, 2010.

\_\_\_\_\_  
Phil Dyer, MAYOR

ATTEST:

\_\_\_\_\_  
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

**City of Plano**  
**Water Management Plan**

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## **APPENDICES**

<b>APPENDIX A</b>	<b>List of References</b>
<b>APPENDIX B</b>	<b>Texas Commission on Environmental Quality Rules on Municipal Water Conservation and Drought Contingency Plans</b> <ul style="list-style-type: none"><li>• Texas Administrative Code Title 30, Part 1, Chapter 288, Subchapter A, Rule §288.1 – Definitions</li><li>• Texas Administrative Code Title 30, Part 1, Chapter 288, Subchapter A, Rule §288.2 – Water Conservation Plans for Municipal Uses by Public Water Suppliers</li><li>• Texas Administrative Code Title 30, Part 1, Chapter 288, Subchapter B, Rule §288.20 – Drought Contingency Plans for Municipal Uses by Public Water Suppliers</li></ul>
<b>APPENDIX C</b>	<b>TCEQ Water Utility Profile</b>
<b>APPENDIX D</b>	<b>NTMWD Member City and Customer Annual Water Conservation Report</b>
<b>APPENDIX E</b>	<b>Landscape Water Management Regulations</b>
<b>APPENDIX F</b>	<b>Water Conservation Rebate Program</b>
<b>APPENDIX G</b>	<b>TCEQ Water Conservation Implementation Report</b>
<b>APPENDIX H</b>	<b>Illegal Water Connections and Theft of Water Ordinance</b>
<b>APPENDIX I</b>	<b>Water Rate Structure Ordinance</b>
<b>APPENDIX J</b>	<b>Resolution Adopting Water Management Plan</b>
<b>APPENDIX K</b>	<b>Drought Contingency &amp; Water Emergency Response Ordinance</b>
<b>APPENDIX L</b>	<b>Plumbing Code Ordinance</b>
<b>APPENDIX M</b>	<b>Fugitive Water Ordinance</b>

## 1. INTRODUCTION AND OBJECTIVES

Water supply has always been a key issue in the development of Texas. In recent years, the growing population and economic development of North Central Texas has led to increasing demands for water supplies. At the same time, local and less expensive sources of water supply are largely developed. Additional supplies to meet higher demands will be expensive and difficult to develop. It is therefore important that NTMWD and its Member Cities and Customers make the most efficient use of existing supplies. This will delay the need for new supplies, minimize the environmental impacts associated with developing new supplies, and delay the high cost of additional water supply development.

Recognizing the need for efficient use of existing water supplies, the Texas Commission on Environmental Quality (TCEQ) has developed guidelines and requirements governing the development of water conservation and drought contingency plans for public water suppliers. TCEQ guidelines and requirements are included in **Appendix B**. The best management practices established by the Water Conservation Implementation Task Force, established pursuant to SB1094 by the 78<sup>th</sup> Legislature, were also considered in the development of the water conservation measures. The Water Management Plan for the City of Plano was developed in concert with the NTMWD's water conservation and drought contingency and water emergency response plans.

The water conservation sections of this plan are intended as a year-round water efficiency plan and include measures that are designed to result in ongoing, long-term water savings. The objectives of this water conservation plan are as follows:

- To reduce water consumption from the levels that would prevail without conservation efforts.
- To reduce the loss and waste of water.
- To improve efficiency in the use of water.
- To document the level of recycling and reuse in the water supply.
- To extend the life of current water supplies by reducing the rate of growth in demand.

The drought contingency and water emergency response sections of this plan address strategies designed to temporarily reduce water use in response to specific conditions. The purpose of this drought contingency and water emergency response plan is as follows:

- To conserve the available water supply in times of drought and emergency
- To maintain supplies for domestic water use, sanitation, and fire protection
- To protect and preserve public health, welfare, and safety
- To minimize the adverse impacts of water supply shortages
- To minimize the adverse impacts of emergency water supply conditions.

The NTMWD supplies treated water to its Member Cities and Customers. The water conservation and drought contingency sections of this document were modeled after plans

developed by NTMWD in consultation with its Member Cities. In concert with the adoption of this plan, the City of Plano is required to do the following:

- Complete the TCEQ Water Utility Profile (**Appendix C**).
- Complete the TCEQ Water Conservation Implementation Report (**Appendix G**).
- Set five-year and ten-year goals for per capita water use (Section 4).
- Adopt an ordinance approving the plan, including the determination of fines and enforcement procedures (**Appendix J**).

This plan includes all elements required by TCEQ. The final adopted version of the Water Management Plan, including appendices and ordinance, will also be provided to NTMWD, as well as TCEQ.

This Water Management Plan applies to all users of the City of Plano water supply.

Definitions:

*Athletic Fields* means turf or play surfaces that are provided by government agencies for public or non-profit sporting activities and events. The athletic field is typically defined by a grass that requires a very high level of maintenance and mowed at a low height to provide a consistent and safe play surface.

*Central Controlled Irrigation Systems* means large scale, technically advanced systems used to water large or multiple sites from a central location. This advanced technology can monitor and adapt system operation and irrigation run times in response to conditions in the system or surrounding areas. (weather conditions, pipe breaks, etc.) These systems may also be easily programmed (individually or globally) to reduce flow rates or the amount of water applied to meet conservation needs; required reduction percentages; and provide historical data or reports. The City central irrigation system uses multiple weather stations throughout the city to collect real-time climatologically data. This data is then available to the computer to automatically shut down the system when weather conditions warrant.

*Customer* means a person, company or other entity connected to the City's water system and contracting with the City of Plano to receive potable water service.

*Drip or Low Flow Irrigation* means irrigation systems using devices and components that emit water at a low volume and may be designed for specific types of plant material. These irrigation devices or components limit the amount and location of water being applied. Examples include micro-irrigation (emitters and drip tubes), irrigation (bubbler and low flow spray) heads used for watering trees, soaker hoses, etc.

*Foundation* means area that includes first 24" of soil from foundation slab.

*Fugitive water* means the pumping, flow, release, escape, or leakage of any water from any pipe, valve, faucet, connection, diversion, well, from any water supply, transport, storage disposal or delivery system of a facility onto adjacent property or the public right-of-way. For purposes of this Plan, it will apply to water extending 10' from property boundary lines onto adjacent property or 10' past targeted irrigation area.

*High Use Areas* means publicly owned properties that have irrigated surfaces where there is a high volume of public use and there may be a significant increase in risk and liability if surfaces are not minimally irrigated to mitigate safety hazards to users caused by lack of water.

*Landscape* means natural plant materials around buildings or on grounds (i.e., trees, shrubbery, grasses and flowers) but excludes athletic fields and high use areas.

*Potable water* means any public water supply which has been investigated and approved by the TCEQ as satisfactory for drinking, culinary and domestic purposes.

*Public Health and Safety* means such amount of water as necessary to sustain human life, reasonable standards of hygiene and sanitation, and fire suppression.

*Wholesale customers* purchase water at a discounted rate either directly from NTMWD or from a NTMWD water system Member City. Plano is a wholesale customer of NTMWD.

Responsibilities:

(a) The Director of Public Works and Engineering is responsible for:

- Advising the City Manager in issues related to water conservation and drought and water emergency issues.
- Developing and maintaining the Water Conservation and Drought and Emergency Response Plans in consonance with the most current NTMWD Model Plan and TCEQ guidelines and policies.
- Implementing programs to reduce and control water loss, calculating and reporting unaccounted for water, and keeping water loss under 12%. When water loss exceeds state standards, the City will intensify water loss control programs.
- Assuring that City ordinances are maintained to continue to support future revisions to the NTMWD Model Plan, City Plan, TCEQ guidelines, and legislative mandate.
- Preparing and submitting all the required reports, water utility profiles, and tabular materials related to water conservation in the formats and media as required by the City Plan and/or NTMWD, TCEQ, and/or the Texas Water Development Board (TWDB).
- Continuing the City's Water and Sewer Fund financial programming to support a residential meter replacement cycle of no more than 10 years and conducting a regular large meter testing program on no less than a 5-year cycle.
- Supporting the City's goal of reducing municipal gallons per capita per day (gpcd) to 213 gpcd within a 10 year period.
- Providing the City Plan to NTMWD for comment. Providing NTMWD and the Chair of the Region C water planning group the City's adopted ordinance.
- Managing the administrative processing and follow-up associated with requesting of variances from City customers.
- Managing the administrative processing and follow-up associated with enforcement of all water conservation and drought contingency and water emergency response provisions of the ordinance.
- Managing the program that allows the pursuit of administrative remedies for violations of water conservation and drought water use restrictions by non-single family water account holders.

(b) The Director of Sustainability & Environmental Services is responsible for:

- Developing and presenting water conservation educational and informational programs.
- Developing water conservation promotional activities including a water conservation incentive program.

- Developing and distributing the annual Water Confidence Report.
  - Notifying the public of the initiation of any drought and emergency response stage.
  - Assuring that education materials are maintained to continue to support future revisions to the NTMWD Model Plan, City Plan, TCEQ guidelines, and legislative mandate.
- (c) The Director of Customer & Utility Billing is responsible for:
- Assuring the City continues its program of universal metering and billing.
  - Assuring that the City water billing/records management system includes water usage classes and capabilities to sort/separate differing classes and categories of water usage as required by the NTMWD Model Plan and Texas Administrative Code (TAC) Title 30, Part I, Chapter 288, Subchapter A, Rule 288.2(a)(2)(b).
- (d) The Chief Building Official is responsible for:
- Enforcing the requirements of the International Plumbing Code (IPC) in residential and commercial facilities.
  - As part of the building permit and building inspection programs, enforcing requirement for landscape irrigation system design in accordance with state design and installation requirements and inclusion of freeze and rain sensors on all new irrigation systems (**Appendix L**). This requires irrigation system design submission by builders for review by the building official staff and inspection of the irrigation systems as part of the building inspection program.
- (e) Planning and Development is responsible for:
- Maintaining and enforcing the Zoning Ordinance's landscape and irrigation plan requirements through the development review process.
  - Implementing procedures to allow developers to delay the installation of landscaping during drought contingency watering restrictions.
- (f) Parks and Recreation Department is responsible for:
- Operating and maintaining a central controlled irrigation system, and other city irrigation systems to ensure conservation of water, and efficient use of irrigation to meet the needs of users utilizing city sites. Safety and usability for recreational users of irrigated city sites shall be considered a priority.
  - Installing and maintaining landscapes and managing natural and man-made park resources in a sustainable manner suitable for the scope and scale of the assets. Demonstration of conservation measures meaningful to residential scale shall be incorporated into sites and practices when feasible.

## **2. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY RULES**

### **2.1 Conservation Plans**

The TCEQ rules governing development of water conservation plans for public water suppliers are contained in Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2 of the Texas Administrative Code, which is included in **Appendix B**. For the purpose of these rules, a water conservation plan is defined as “A strategy or combination of strategies for reducing the volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water.” The elements in the TCEQ water conservation rules covered in this conservation plan are listed below.

#### Minimum Conservation Plan Requirements

The minimum requirements in the Texas Administrative Code for Water Conservation Plans for Public Water Suppliers are covered in this report as follows:

- 288.2(a)(1)(A) – Utility Profile – Section 3 and Appendix C
- 288.2(a)(1)(B) – Specification of Goals – Section 4
- 288.2(a)(1)(C) – Specific, Quantified Goals – Section 4
- 288.2(a)(1)(D) – Accurate Metering – Sections 5.1 and 5.2
- 288.2(a)(1)(E) – Universal Metering – Section 5.2
- 288.2(a)(1)(F) – Determination and Control of Unaccounted Water – Section 5.4
- 288.2(a)(1)(G) – Public Education and Information Program – Section 6
- 288.2(a)(1)(H) – Non-Promotional Water Rate Structure – Section 7
- 288.2(a)(1)(I) – Reservoir System Operation Plan – Section 8.1
- 288.2(a)(1)(J) – Means of Implementation and Enforcement – Section 12
- 288.2(a)(1)(K) – Coordination with Regional Water Planning Group – Section 10
- 288.2(c) – Review and Update of Plan – Section 11

#### Conservation Additional Requirements (Population over 5,000)

The Texas Administrative Code includes additional requirements for water conservation plans for drinking water supplies serving a population over 5,000:

- 288.2(a)(2)(A) – Leak Detection, Repair, and Water Loss Accounting – Sections 5.1, 5.2, 5.3, and 5.4
- 288.2(a)(2)(B) – Record Management System – Section 5.2
- 288.2(a)(2)(C) – Requirement for Water Conservation Plans by Wholesale Customers – Section 8.7

#### Additional Conservation Strategies

The TCEQ requires that a water conservation implementation report (Appendix G) be completed and submitted on an annual basis.

In addition to the TCEQ required water conservation strategies, the NTMWD also requires the following strategy be included in the Member City and Customer plans:

- 288.2(a)(3)(F) – Considerations for Landscape Water Management Regulations – Section 8.4 and Appendix E

TCEQ rules also include optional, but not required, conservation strategies, which may be adopted by suppliers. The NTMWD recommends that the following strategies be included in the Member City and Customer water conservation plans:

- 288.2(a)(3)(A) – Conservation Oriented Water Rates – Section 7
- 288.2(a)(3)(B) – Ordinances, Plumbing Codes or Rules on Water-Conserving Fixtures – Section 8.3
- 288.2(a)(3)(C) – Replacement or Retrofit of Water-Conserving Plumbing Fixtures – Section 8.6
- 288.2(a)(3)(D) – Reuse and Recycling of Wastewater – Section 8.2
- 288.2(a)(3)(F) – Considerations for Landscape Water Management Regulations – Section 8.5 and Appendix E
- 288.2(a)(3)(G) – Monitoring Method – Section 5.5
- 288.2(a)(3)(H) – Additional Conservation Ordinance Provisions – Section 8.5 and 8.6

## **2.2 Drought Contingency Plans**

The TCEQ rules governing development of drought contingency plans for public water suppliers are contained in Title 30, Part 1, Chapter 288, Subchapter B, Rule 288.20 of the Texas Administrative Code, a current copy of which is included in **Appendix B**. For the purpose of these rules, a drought contingency and water emergency response plan is defined as “a strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies.” The elements in the TCEQ drought contingency rules covered in this conservation plan are listed below.

### Minimum Requirements

TCEQ’s minimum requirements for drought contingency plans are addressed in the following subsections of this report:

- 288.20(a)(1)(A) – Provisions to Inform the Public and Provide Opportunity for Public Input – Appendix K
- 288.20(a)(1)(B) – Provisions for Continuing Public Education and Information – Appendix K
- 288.20(a)(1)(C) – Coordination with the Regional Water Planning Group – Section 10

- 288.20(a)(1)(D) – Criteria for Initiation and Termination of Drought Stages – Appendix K
- 288.20(a)(1)(E) – Drought and Emergency Response Stages – Appendix K
- 288.20(a)(1)(F) – Specific, Quantified Targets for Water Use Reductions – Appendix K
- 288.20(a)(1)(G) – Water Supply and Demand Management Measures for Each Stage – Appendix K
- 288.20(a)(1)(H) – Procedures for Initiation and Termination of Drought Stages – Appendix K
- 288.20(a)(1)(I) - Procedures for Granting Variances – Appendix K
- 288.20(a)(1)(J) - Procedures for Enforcement of Mandatory Restrictions – Appendix K
- 288.20(a)(3) – Consultation with Wholesale Supplier – Appendix K
- 288.20(b) – Notification of Implementation of Mandatory Measures – Appendix K
- 288.20(c) – Review and Update of Plan – Section 11

### **3. WATER UTILITY PROFILE**

The Water Utility Profile must be completed as a requirement of the Water Management Plan. See **Appendix C**.

#### 4. SPECIFICATION OF WATER CONSERVATION GOALS

TCEQ rules require the adoption of specific water conservation goals for a water conservation plan. As part of plan adoption, the City of Plano must develop 5-year and 10-year goals for per capita municipal use. These goals should be submitted to NTMWD. The goals for this water management plan include the following:

- Maintain the per capita municipal water use below the specified amount in gallons per capita per day in a dry year, as shown in the completed Table 4.1.
- Maintain the level of unaccounted water in the system below 12% in 2009 and in subsequent years, as discussed in Section 5.4.
- Implement and maintain a program of universal metering and meter replacement and repair, as discussed in Section 5.2.
- Decrease waste in lawn irrigation by implementation and enforcement of landscape water management regulations, as discussed in Section 8.4 and **Appendix E**.
- Increase efficient water usage as discussed in Sections 8.5 and 8.6.
- Raise public awareness of water conservation and encourage responsible public behavior by a public education and information program, as discussed in Section 6.
- Develop a system specific strategy to conserve water during peak demands, thereby reducing the peak use.

**Table 4.1  
Five-Year and Ten-Year Municipal Per Capita Water Use Goals (gpcd)**

Description	Current Average (gpcd)	5-Year Goal (gpcd)	10-Year Goal (gpcd)
Current 5-Year Average Per Capita Municipal Use with Credit for Reuse	<b>237*</b>		
Expected Reduction due to Low-Flow Plumbing Fixtures	N/A	N/A	N/A
Projected Reduction Due to Elements in this Plan		12	24
<b>Water Conservation Goals (with credit for reuse)</b>		<b>225</b>	<b>213</b>

\*Based on water consumption of residents and does not include “industrial” or “commercial” use.

## **5. METERING, WATER USE RECORDS, CONTROL OF UNACCOUNTED WATER, AND LEAK DETECTION AND REPAIR**

One of the key elements of water conservation is tracking water use and controlling losses through illegal diversions and leaks. It is important to carefully meter water use, detect and repair leaks in the distribution system and provide regular monitoring of unaccounted water.

### **5.1 Accurate Metering of Treated Water Deliveries from NTMWD**

Water deliveries from NTMWD are metered by NTMWD using meters with accuracy of  $\pm 2\%$ . These meters are calibrated on a monthly basis by NTMWD to maintain the required accuracy.

### **5.2 Metering of Customer and Public Uses and Meter Testing, Repair, and Replacement**

The provision of water to all customers, including public and governmental users, will be metered in the City of Plano. The City of Plano tests and/or replaces their residential customer meters in accordance with Sec. 4.2.8 of AWWA C700-95 and M-6, Water Meters – Selection, Installation, Testing and Maintenance Record Management System. All residential customer meters will be budgeted to be replaced on a minimum of a 10-year cycle. Additionally, large meters will be regularly tested on no less than a 5-year interval and either maintained or replaced when their test flow is outside standards established by AWWA.

As required by TAC Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2(a)(2)(B), the City of Plano will maintain a customer billing and record management system that allows for the separation of water sales and uses into residential, commercial, public/institutional, and industrial categories. This information will be included in an annual water conservation report, as described in Section 5.6 below.

### **5.3 Determination and Control of Unaccounted Water**

Unaccounted water is the difference between water delivered to the City of Plano from NTMWD (and other supplies, if applicable) and metered water sales to customers plus authorized but unmetered uses. (Authorized but unmetered uses would include use for fire fighting, releases for flushing of lines, uses associated with new construction, etc.) Unaccounted water can include several categories:

- Inaccuracies in customer meters. (Customer meters tend to run more slowly as they age and under-report actual use.)
- Accounts which are being used but have not yet been added to the billing system.
- Losses due to water main breaks and leaks in the water distribution system.
- Losses due to fire fighting.
- Losses due to illegal connections and theft. (**Appendix H**)
- Other.

Measures to control unaccounted water will be part of the routine operations of the City of Plano. Maintenance crews and personnel will look for and report evidence of leaks in the

water distribution system. A leak detection and repair program is described in Section 5.4 below. Meter service technicians, building inspectors, and all City crews will watch for and report signs of illegal connections, so they can be quickly addressed.

Unaccounted water should be calculated in accordance with the provisions of **Appendix C**. With the measures described in this plan, the City of Plano should maintain unaccounted water below 12 percent in 2009 and subsequent years. If unaccounted water exceeds this goal, the City of Plano will implement a more intensive audit to determine the source(s) of and reduce the unaccounted water. The annual conservation report described below is the primary tool that should be used to monitor unaccounted water.

#### **5.4 Leak Detection and Repair**

As described above, city crews and personnel should look for and report evidence of leaks in the water distribution system. Areas of the water distribution system, in which numerous leaks and line breaks occur, should be targeted for replacement as funds are available. The City central irrigation system uses sub-metering and real-time data collection to monitor for leaks, line breaks, and malfunctions. The system automatically shuts down when leaks are detected, then automatically generates reports for these occurrences so they may be followed up by field technicians.

#### **5.5 Monitoring of Effectiveness and Efficiency - Annual Water Conservation Report**

The City of Plano will complete the NTMWD Member City and Customer Water Conservation Report (**Appendix D**) by March 31 each year and will use this report to monitor the effectiveness and efficiency of the water conservation program and to plan conservation-related activities for the next year. The form records the water use by category, per capita municipal use, and unaccounted water for the current year and compares them to historical values. The annual water conservation report should be sent to NTMWD, which will monitor NTMWD Member Cities' and Customers' water conservation trends.

#### **5.6 Water Conservation Implementation Report**

The TCEQ-required Water Conservation Implementation Report (**Appendix G**) is due to the TCEQ by May 1 of every year, starting in the year 2010. This report lists the various water conservation strategies that have been implemented, including the date the strategy was implemented. The report also calls for the five-year and ten-year per capita water use goals from the previous water conservation plan. The reporting entity must answer whether or not these goals have been met and if not, why not. The amount of water saved is also requested.

## 6. CONTINUING PUBLIC EDUCATION AND INFORMATION CAMPAIGN

The continuing public education and information campaign on water conservation includes the following elements:

- Designated education coordinator to develop water conservation materials, presentations, exhibits, rebate programs, and educational workshops.
- Trained water meter technicians to provide face-to-face communication with residents concerning proper irrigation system design and operation and other conservation practices
- Maintain Web site designed to educate residents on water conserving practices, real time water usage, recommended irrigation schedules, and links to other helpful resources.
- Utilize the “Water IQ: Know Your Water” and produce other public education materials as appropriate for targeted audiences.
- Insert water conservation information with water bills. Inserts will include material developed by Sustainability & Environmental Services (SES) staff and material obtained from the TWDB, the TCEQ, and other sources.
- Encourage local media coverage of water conservation issues and the importance of water conservation.
- Notify local organizations, schools, and civic groups that SES and staff of the NTMWD are available to make presentations on the importance of water conservation and ways to save water.
- Promote the *Texas Smartscape* Web site ([www.txsmartscape.com](http://www.txsmartscape.com)) and make water conservation brochures and other water conservation materials available to the public at City Hall and other public places.
- Make information on water conservation available on City and department Web sites and include links to following websites: “Water IQ: Know Your Water,” *Texas Smartscape*, NTMWD, Texas Water Development Board, and Texas Commission on Environmental Quality.

## 7. WATER RATE STRUCTURE

The City of Plano will continue to bill customers using an increasing block rate water structure that is intended to encourage water conservation and discourage excessive use and waste of water. See **Appendix I** for the City's ordinance establishing an increasing block rate structure and minimum charge and base charges for all tiers for the residential and commercial/industrial water rates.

## **8. OTHER WATER CONSERVATION MEASURES**

### **8.1 NTMWD System Operation Plan**

Member Cities and Customers of NTMWD purchase treated water from NTMWD and do not have surface water supplies for which to implement a system operation plan. NTMWD's permits do allow some coordinated operation of its water supply sources, and NTMWD is seeking additional water rights for coordinated operation to optimize its available water supplies.

### **8.2 Reuse and Recycling of Wastewater**

The City of Plano does not own and operate their own wastewater treatment plants. Their wastewater is treated by NTMWD. NTMWD currently has the largest wastewater reuse program in the state. NTMWD has water rights through Lake Lavon allowing reuse of up to 71,882 acre-feet per year of treated wastewater for municipal purposes. In addition, NTMWD has also developed the East Fork Raw Water Supply Project which can divert up to 157,393 acre-feet per year based on treated wastewater discharges by the NTMWD. These two reuse projects will provide up to 44 percent of the NTMWD's currently permitted water supplies. NTMWD also provides treated effluent from its wastewater treatment plants available for direct reuse for landscape irrigation and industrial use.

### **8.3 Ordinances, Plumbing Codes, or Rules on Water-Conserving Fixtures**

The state has required water-conserving fixtures in new construction and renovations since 1992. The state standards call for flows of no more than 2.5 gallons per minute (gpm) for faucets, 3.0 gpm for showerheads, and 1.6 gallons per flush for toilets. Similar standards are now required nationally under federal law. These state and federal standards assure that all new construction and renovations will use water-conserving fixtures. As it deems appropriate, the City of Plano will continue to implement ordinances, plumbing codes, and rules for water conserving fixtures as they evolve through relevant building codes and State of Texas requirements.

### **8.4 Landscape Water Management Measures**

The City of Plano adopts the following basic landscape water conservation measures as required by NTMWD:

- The City of Plano promotes a policy that restricts lawn irrigation between the hours of 10 am to 6 pm from April 1 to October 31 of each year. Registered and properly functioning central controlled irrigation system and low flow irrigation systems are exempt from this provision. Government agencies watering athletic fields, high use areas, or any other public grounds that are heavily used by the public will be programmed to meet the minimum watering requirement to keep the surface / turf safe and usable for its intended purpose. Running government irrigation systems for maintenance, testing, and calibration purposes at any time is also exempt; provided there is a maintenance technician on-site while the system is running. Public sites shall be programmed to meet this 10 AM to 6 PM watering prohibition when feasible. As older, large scale public irrigation systems are renovated, systems will be designed to minimize exemptions to the level of funding available.

- Promote lawn and landscape irrigation limited to a maximum of twice per week between April 1 and October 31. Registered and properly functioning central controlled irrigation system and low flow irrigation systems are exempt from this provision. Government agencies watering athletic fields, high use areas, or any other public grounds that are heavily used by the public will be programmed to meet the minimum watering requirement to keep the surface / turf safe and usable for its intended purpose. Running government irrigation systems for maintenance, testing, and calibration purposes at any time is also exempt; provided there is a maintenance technician on-site while the system is running. As a good faith effort, public sites shall be programmed to meet twice per week watering schedules when feasible. As older, large scale public irrigation systems are renovated, systems will be designed to minimize exemptions to the level of funding available.
- Promote watering to one day a week between November 1 and March 30.
- No person or operation shall cause or permit the flow of excess or fugitive water onto any adjacent property or public right-of-way (**Appendix M**).
- Prohibition of watering of impervious surfaces. Wind driven water drift will be taken into consideration (**Appendix M**).
- Prohibition of outdoor watering during precipitation or freeze events (**Appendix M**).

The City has developed landscape regulations as part of its zoning ordinance (**Appendix E**). The requirements are intended to minimize waste in landscape irrigation by requiring:

- Submission of a water budget with landscape plans for new commercial development
- Rain sensors on irrigation systems
- Irrigation system zones to water plants based on similar water needs
- Trees and plants suitable for local soil and climate conditions.
- Landscape designs that conserve water through creative design and that comply with the following principles:
  - Soil protection and improvement
  - Careful selection and design of turf areas
  - Use of site-appropriate plan materials with water conservation in mind
  - Use of mulch around all plant materials and areas that are not turf or hardscape

In addition, the plumbing codes have been amended (**Appendix L**) to require:

- New irrigation systems meeting detailed requirements of use of drip and low flow irrigation, distribution uniformity (75 percent), low-angle spray heads, designs in accordance with TCEQ
- No spray heads allowed between street and sidewalk planting areas of both residential and commercial properties
- Installation and inspection for irrigation systems that include an evaluation of the system for the distribution uniformity
- Rain and freeze sensors are required on all new irrigation systems. Rain and freeze sensors must be maintained to function

### **8.5 Additional Water Conservation Measures**

- Promote proper maintenance of irrigation systems.
- “At home” car washing can be done only when using a water hose with a shut-off nozzle.
- Promote outdoor water efficiency on Web site, including water conserving irrigation systems.
- The Customer & Utility Services Department (C/US) will continue to deploy the next generation of the automated meter reading systems known as fixed network systems which will replace the existing AMR over a 5 year implementation. The fixed network system will offer the new ability to analyze water usage by meter by time of day. Data is captured on a daily basis which assists in the City's efforts to educate and inform customers of patterns of water usage to help customers make better decisions regarding their water consumption and will also help identify presence of leaks.

### **8.6 Rebates and Free Distribution of Water Conserving Devices**

The following water conservation items are available free at the Plano Customer & Utility Services Department:

- Low-flow Showerheads
- Faucet Aerators
- Toilet Leak Detection Tablets
- Shower Coaches
- Toilet Flapper

The City offers partial credit for leak repair with sufficient documentation.

Effective February 2010, an incentive rebate program will be implemented to encourage installation of water conserving devices. **Appendix F** will describe the program (once adopted) and the procedures for participating. The items for the City's rebate program will change from time to time as the program evolves. The following list identifies rebate programs currently being considered:

- Rain/Freeze Sensors

- Water Efficient Clothes Washers
- Low-flow Toilet Replacements
- Rain Barrels
- Pressure Reducing Valves
- Water Filters

### **8.7 Requirement for Water Conservation Plans by Wholesale Customers**

The NTMWD Model Plan requires that every contract for the wholesale sale of water by Member Cities and/or Customers that is entered into, renewed, or extended after the adoption of this water conservation plan include a requirement that the wholesale customer and any wholesale customers of that wholesale customer develop and implement a water conservation plan meeting the requirements of Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.2 of the Texas Administrative Code. The requirement will also extend to each successive wholesale customer in the resale of the water. The Colony is the only active wholesale customer of Plano's water system.

## **9. IMPLEMENTATION OF THE DROUGHT CONTINGENCY & WATER EMERGENCY RESPONSE PLAN**

A drought is defined as an extended period of time when an area receives insufficient amounts of rainfall to replenish the water supply, causing water supply sources, in this case reservoirs, to be depleted. In the absence of drought response measures, water demands tend to increase during a drought due to the need for additional outdoor irrigation. The severity of a drought depends on the degree of depletion of supplies and on the relationship of demand to available supplies. The NTMWD considers a drought to end when all of its supply reservoirs refill to the conservation storage pool.

**Appendix K** includes ordinance establishing procedures and criteria for declaring a water emergency and implementing and terminating drought response stages, procedures for requesting variances, and establishing administrative remedies and fees and criminal penalties for violating the restrictions.

**10. COORDINATION WITH THE REGIONAL WATER PLANNING GROUP AND  
NTMWD**

The City of Plano will send a copy of this water management plan, the ordinance adopting the plan, and the water utility profile to the NTMWD and the Chair of the Region C Water Planning Group.

## **11. REVIEW AND UPDATE OF WATER MANAGEMENT PLAN**

As required by TCEQ rules, the City of Plano will review the Water Management Plan, including the Drought Contingency and Water Emergency Response Ordinance, every five years. The plan will be updated as appropriate based on new or updated information.

## **12. IMPLEMENTATION AND ENFORCEMENT OF THE WATER MANAGEMENT PLAN**

**Appendix J** contains a copy of the resolution adopted by the City Council regarding the Water Management Plan. The following ordinances are also included as part of the Water Management Plan:

Appendix E – Landscape Water Management Regulation

Appendix H – Illegal Water Connections and Theft of Water

Appendix I – Water Rates

Appendix K – Drought Contingency & Water Emergency Response

Appendix L – Plumbing Code

Appendix M – Fugitive Water

**APPENDIX A  
LIST OF REFERENCES**

- (1) Title 30 of the Texas Administrative Code, Part 1, Chapter 288, Subchapter B, Rule 288.20, downloaded from <http://www.tnrcc.state.tx.us/oprd/rules/pdflib/288a.pdf>, July 2007.
- (2) Freese and Nichols, Inc.: *North Texas Municipal Water District Water Conservation and Drought Contingency and Water Emergency Response Plan*, prepared for the North Texas Municipal Water District, Fort Worth, March 2008.

The following conservation and drought contingency plans and related documents were reviewed in the development of this plan. References marked with a \* were used heavily in the development of this plan.

- (3) City of Austin Water Conservation Division: "City of Austin Water Drought Contingency Plan, Developed to Meet Senate Bill 1 Regulatory Requirements," Austin, August 1999.
- (4) City of Austin Water Conservation Division: "City of Austin Water Conservation Plan, Developed to Meet Senate Bill 1 Regulatory Requirements," Austin, August 1999.
- (5) Upper Trinity Regional Water District: "Water Conservation Plan and Emergency Water Demand Management Plan," adopted by the Board of Directors, Lewisville, August 5, 1999.
- (6) Upper Trinity Regional Water District: "Water Conservation Plan and Emergency Water Demand Management Plan (2002 Amended)," adopted by the Board of Directors, Lewisville, February 2002.
- (7) \*City of Dallas Water Utilities Department: "City of Dallas Water Management Plan," adopted by the City Council, Dallas, September 1999.
- (8) Updates to City of Dallas Water Management Plan found at <http://www.dallascityhall.com> in September 2003.
- (9) \*City of Dallas Water Utilities Department: "City of Dallas Water Conservation Plan," adopted by the City Council, Dallas, September 1999.
- (10) \*City of Fort Worth: "Water Conservation plan for the City of Fort Worth," Fort Worth, August 1999.
- (11) Updates to the City of Fort Worth water conservation plan found at <http://ci.fort-worth.tx.us> in September 2003.
- (12) \*City of Fort Worth: "Emergency Water Management Plan for the City of Fort Worth," Fort Worth, August 19, 2003.
- (13) HDR Engineering, Inc.: "Water Conservation and Emergency Demand Management Plan," prepared for the Tarrant Regional Water District, Austin, February 2000.
- (14) Freese and Nichols, Inc.: "Water Conservation and Drought Contingency Plan," prepared for Brown County Water Improvement District No. 1, Fort Worth, August 1999.
- (15) Freese and Nichols, Inc.: "Water Conservation and Drought Contingency Plan," prepared for the Sabine River Authority of Texas, Fort Worth, September 1994.

- (16) HDR Engineering, Inc.: "Water Conservation and Emergency Demand Management Plan," prepared for the Tarrant Regional Water District, Austin, June 1998.
- (17) HDR Engineering, Inc.: "Water Conservation Plan for the City of Corpus Christi," adopted by the City of Corpus Christi City Council, August 24, 1999.
- (18) City of Houston's water conservation plan downloaded September 2003 from <http://www.cityofhouston.gov>
- (19) City of Houston: "Ordinance N. 2001-753, Amending Chapter 47 of the Code of Ordinances Relating to Water Emergencies," Houston, August 2001.
- (20) City of Houston: "Ordinance No. 98-764, Relating to Water Conservation," Houston, September 1998.
- (21) City of Houston: "Water Conservation Plan," 1998.
- (22) City of Houston: "Water Emergency Response Plan," Houston, July 15, 1998.
- (23) City of Lubbock: "Water Conservation Plan," ordinance number 10177 adopted by the City Council in August 1999.
- (24) City of El Paso Water Conservation Ordinance downloaded August 14, 2003 from <http://www.epwu.org/ordinance.html>
- (25) San Antonio Water System: "Water Conservation and Reuse Plan," San Antonio, November 1998 with June 2002 updates.
- (26) North Texas Municipal Water District: "District Policy No. 24 Water Conservation Plan Containing Drought Contingency Plan," adopted August 1999.
- (27) GDS Associates, Inc.: "Water Conservation Study," prepared for the Texas Water Development Board, Fort Worth, 2002.
- (28) A & N Technical Services, Inc.: "BMP Costs & Savings Study: A Guide to Data and Methods for Cost-Effectiveness Analysis of Urban Water Conservation Best Management Practices," prepared for The California Urban Water Conservation Council, Santa Monica, California, July 2000.
- (29) \*City of Dallas: "City of Dallas Ordinances, Chapter 49, Section 21.1," Dallas, October 1, 2001.
- (30) Title 30 of the Texas Administrative Code, Part 1, Chapter 288, Subchapter A, Rules 288.1 and 288.2, downloaded from [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac\\_view=4&ti=30&pt=1&ch=288](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=288), July 2007.
- (31) Water Conservation Implementation Task Force: "Texas Water Development Board Report 362, Water Conservation Best Management Practices Guide," prepared for the Texas Water Development Board, Austin, November 2004.
- (32) Freese and Nichols, Inc.: *North Texas Municipal Water District Water Conservation and Drought Contingency/Water Emergency Response Plan*, prepared for the North Texas Municipal Water District, Fort Worth, March 2008.

The following conservation and drought contingency plans and related documents were reviewed in the development of this plan. References marked with a \* were used heavily in the development of this plan.

- (33) Edward Motley, Marisa Vergara, Tom Gooch, and Stephanie Griffin: Memorandum to File on "Region C Municipal Water Use Projections Adopted on August 18, 2003," Fort Worth, August 21, 2003.
- (34) City of Austin Water Conservation Division: "City of Austin Water Drought Contingency Plan, Developed to Meet Senate Bill 1 Regulatory Requirements," Austin, August 1999.
- (35) City of Austin Water Conservation Division: "City of Austin Water Conservation Plan, Developed to Meet Senate Bill 1 Regulatory Requirements," Austin, August 1999.
- (36) Upper Trinity Regional Water District: "Water Conservation Plan and Emergency Water Demand Management Plan," adopted by the Board of Directors, Lewisville, August 5, 1999.
- (37) Upper Trinity Regional Water District: "Water Conservation Plan and Emergency Water Demand Management Plan (2002 Amended)," adopted by the Board of Directors, Lewisville, February 2002.
- (38) \*City of Dallas Water Utilities Department: "City of Dallas Water Management Plan," adopted by the City Council, Dallas, September 1999.
- (39) Updates to City of Dallas Water Management Plan found at <http://www.dallascityhall.com> in September 2003.
- (40) \*City of Dallas Water Utilities Department: "City of Dallas Water Conservation Plan," adopted by the City Council, Dallas, September 1999.
- (41) \*City of Fort Worth: "Water Conservation plan for the City of Fort Worth," Fort Worth, August 1999.
- (42) Updates to the City of Fort Worth water conservation plan found at <http://ci.fort-worth.tx.us> in September 2003.
- (43) \*City of Fort Worth: "Emergency Water Management Plan for the City of Fort Worth," Fort Worth, August 19, 2003.
- (44) HDR Engineering, Inc.: "Water Conservation and Emergency Demand Management Plan," prepared for the Tarrant Regional Water District, Austin, February 2000.
- (45) Freese and Nichols, Inc.: "Water Conservation and Drought Contingency Plan," prepared for Brown County Water Improvement District No. 1, Fort Worth, August 1999.
- (46) Freese and Nichols, Inc.: "Water Conservation and Drought Contingency Plan," prepared for the Sabine River Authority of Texas, Fort Worth, September 1994.
- (47) HDR Engineering, Inc.: "Water Conservation and Emergency Demand Management Plan," prepared for the Tarrant Regional Water District, Austin, June 1998.
- (48) HDR Engineering, Inc.: "Water Conservation Plan for the City of Corpus Christi," adopted by the City of Corpus Christi City Council, August 24, 1999.

- (49) City of Houston's water conservation plan downloaded September 2003 from <http://www.cityofhouston.gov>
- (50) City of Houston: "Ordinance N. 2001-753, Amending Chapter 47 of the Code of Ordinances Relating to Water Emergencies," Houston, August 2001.
- (51) City of Houston: "Ordinance No. 98-764, Relating to Water Conservation," Houston, September 1998.
- (52) City of Houston: "Water Conservation Plan," 1998.
- (53) City of Houston: "Water Emergency Response Plan," Houston, July 15, 1998.
- (54) City of Lubbock: "Water Conservation Plan," ordinance number 10177 adopted by the City Council in August 1999.
- (55) City of El Paso Water Conservation Ordinance downloaded August 14, 2003 from <http://www.epwu.org/ordinance.html>
- (56) San Antonio Water System: "Water Conservation and Reuse Plan," San Antonio, November 1998 with June 2002 updates.
- (57) North Texas Municipal Water District: "District Policy No. 24 Water Conservation Plan Containing Drought Contingency Plan," adopted August 1999.
- (58) GDS Associates, Inc.: "Water Conservation Study," prepared for the Texas Water Development Board, Fort Worth, 2002.
- (59) A & N Technical Services, Inc.: "BMP Costs & Savings Study: A Guide to Data and Methods for Cost-Effectiveness Analysis of Urban Water Conservation Best Management Practices," prepared for The California Urban Water Conservation Council, Santa Monica, California, July 2000.
- (60) \*City of Dallas: "City of Dallas Ordinances, Chapter 49, Section 21.1," Dallas, October 1, 2001.

## APPENDIX B

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY RULES ON MUNICIPAL WATER CONSERVATION AND DROUGHT CONTINGENCY PLANS

Texas Administrative Code Title 30, Part 1, Chapter 288, Subchapter A, Rule §288.1 – Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Agricultural or Agriculture--Any of the following activities:
  - (A) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;
  - (B) the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media by a nursery grower;
  - (C) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;
  - (D) raising or keeping equine animals;
  - (E) wildlife management; and
  - (F) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.
- (2) Agricultural use--Any use or activity involving agriculture, including irrigation.
- (3) Best management practices--Voluntary efficiency measures that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specific time frame.
- (4) Conservation--Those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.
- (5) Drought contingency plan--A strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies. A drought contingency plan may be a separate document identified as such or may be contained within another water management document(s).
- (6) Industrial use--The use of water in processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, commercial fish production, and the development of power by means other than hydroelectric, but does not include agricultural use.
- (7) Irrigation--The agricultural use of water for the irrigation of crops, trees, and pastureland, including, but not limited to, golf courses and parks which do not receive water through a municipal distribution system.
- (8) Irrigation water use efficiency--The percentage of that amount of irrigation water which is beneficially used by agriculture crops or other vegetation relative to the amount of water diverted from the source(s) of supply. Beneficial uses of water for

- irrigation purposes include, but are not limited to, evapotranspiration needs for vegetative maintenance and growth, salinity management, and leaching requirements associated with irrigation.
- (9) Mining use--The use of water for mining processes including hydraulic use, drilling, washing sand and gravel, and oil field repressuring.
  - (10) Municipal per capita water use--The sum total of water diverted into a water supply system for residential, commercial, and public and institutional uses divided by actual population served.
  - (11) Municipal use--The use of potable water within or outside a municipality and its environs whether supplied by a person, privately owned utility, political subdivision, or other entity as well as the use of sewage effluent for certain purposes, including the use of treated water for domestic purposes, fighting fires, sprinkling streets, flushing sewers and drains, watering parks and parkways, and recreational purposes, including public and private swimming pools, the use of potable water in industrial and commercial enterprises supplied by a municipal distribution system without special construction to meet its demands, and for the watering of lawns and family gardens.
  - (12) Municipal use in gallons per capita per day--The total average daily amount of water diverted or pumped for treatment for potable use by a public water supply system. The calculation is made by dividing the water diverted or pumped for treatment for potable use by population served. Indirect reuse volumes shall be credited against total diversion volumes for the purpose of calculating gallons per capita per day for targets and goals.
  - (13) Nursery grower--A person engaged in the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, who grows more than 50% of the products that the person either sells or leases, regardless of the variety sold, leased, or grown. For the purpose of this definition, grow means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item prior to sale or lease, and typically includes activities associated with the production or multiplying of stock such as the development of new plants from cuttings, grafts, plugs, or seedlings.
  - (14) Pollution--The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.
  - (15) Public water supplier--An individual or entity that supplies water to the public for human consumption.
  - (16) Regional water planning group--A group established by the Texas Water Development Board to prepare a regional water plan under Texas Water Code, §16.053.
  - (17) Retail public water supplier--An individual or entity that for compensation supplies water to the public for human consumption. The term does not include an individual or entity that supplies water to itself or its employees or tenants when that water is not resold to or used by others.
  - (18) Reuse--The authorized use for one or more beneficial purposes of use of water that remains unconsumed after the water is used for the original purpose of use and before that water is either disposed of or discharged or otherwise allowed to flow into a watercourse, lake, or other body of state-owned water.
  - (19) Water conservation plan--A strategy or combination of strategies for reducing the

volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water. A water conservation plan may be a separate document identified as such or may be contained within another water management document(s).

- (20) Wholesale public water supplier--An individual or entity that for compensation supplies water to another for resale to the public for human consumption. The term does not include an individual or entity that supplies water to itself or its employees or tenants as an incident of that employee service or tenancy when that water is not resold to or used by others, or an individual or entity that conveys water to another individual or entity, but does not own the right to the water which is conveyed, whether or not for a delivery fee.

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**Source Note:** The provisions of this §288.1 adopted to be effective May 3, 1993, 18 TexReg 2558; amended to be effective February 21, 1999, 24 TexReg 949; amended to be effective April 27, 2000, 25 TexReg 3544; amended to be effective August 15, 2002, 27 TexReg 7146; amended to be effective October 7, 2004, 29 TexReg 9384; amended to be effective January 10, 2008, 33 TexReg 193

	<b>Texas Administrative Code</b>
<b><u>TITLE 30</u></b>	ENVIRONMENTAL QUALITY
<b><u>PART 1</u></b>	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
<b><u>CHAPTER 288</u></b>	WATER CONSERVATION PLANS, DROUGHT CONTINGENCY PLANS, GUIDELINES AND REQUIREMENTS
<b><u>SUBCHAPTER A</u></b>	WATER CONSERVATION PLANS
<b><u>RULE §288.2</u></b>	<b>Water Conservation Plans for Municipal Uses by Public Water Suppliers</b>

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(a) A water conservation plan for municipal water use by public water suppliers must provide information in response to the following. If the plan does not provide information for each requirement, the public water supplier shall include in the plan an explanation of why the requirement is not applicable.

Minimum requirements.

- (1) All water conservation plans for municipal uses by public drinking water suppliers must include the following elements:
- (A) a utility profile including, but not limited to, information regarding population and customer data, water use data, water supply system data, and wastewater system data;
  - (B) until May 1, 2005, specification of conservation goals including, but not limited to, municipal per capita water use goals, the basis for the development of such goals, and a time frame for achieving the specified goals;
  - (C) beginning May 1, 2005, specific, quantified five-year and ten-year targets for water savings to include goals for water loss programs and goals for municipal use, in gallons per capita per day. The goals established by a public water supplier under this subparagraph are not enforceable;

- (D) metering device(s), within an accuracy of plus or minus 5.0% in order to measure and account for the amount of water diverted from the source of supply;
  - (E) a program for universal metering of both customer and public uses of water, for meter testing and repair, and for periodic meter replacement;
  - (F) measures to determine and control unaccounted-for uses of water (for example, periodic visual inspections along distribution lines; annual or monthly audit of the water system to determine illegal connections; abandoned services; etc.);
  - (G) a program of continuing public education and information regarding water conservation;
  - (H) a water rate structure which is not "promotional," i.e., a rate structure which is cost-based and which does not encourage the excessive use of water;
  - (I) a reservoir systems operations plan, if applicable, providing for the coordinated operation of reservoirs owned by the applicant within a common watershed or river basin in order to optimize available water supplies; and
  - (J) a means of implementation and enforcement which shall be evidenced by:
    - (i) a copy of the ordinance, resolution, or tariff indicating official adoption of the water conservation plan by the water supplier; and
    - (ii) a description of the authority by which the water supplier will implement and enforce the conservation plan; and
  - (K) documentation of coordination with the regional water planning groups for the service area of the public water supplier in order to ensure consistency with the appropriate approved regional water plans.
- (2) Additional content requirements. Water conservation plans for municipal uses by public drinking water suppliers serving a current population of 5,000 or more and/or a projected population of 5,000 or more within the next ten years subsequent to the effective date of the plan must include the following elements:
- (A) a program of leak detection, repair, and water loss accounting for the water transmission, delivery, and distribution system in order to control unaccounted-for uses of water;
  - (B) a record management system to record water pumped, water deliveries, water sales, and water losses which allows for the desegregation of water sales and uses into the following user classes:
    - (i) residential;
    - (ii) commercial;
    - (iii) public and institutional; and
    - (iv) industrial;
  - (C) a requirement in every wholesale water supply contract entered into or renewed after official adoption of the plan (by either ordinance, resolution, or tariff), and including any contract extension, that each successive wholesale customer develop and implement a water conservation plan or water conservation measures using the applicable elements in this chapter. If the customer intends to resell the water, the contract between the initial supplier and customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with the provisions of this chapter.
- (3) Additional conservation strategies. Any combination of the following strategies shall be selected by the water supplier, in addition to the minimum requirements in

paragraphs (1) and (2) of this subsection, if they are necessary to achieve the stated water conservation goals of the plan. The commission may require that any of the following strategies be implemented by the water supplier if the commission determines that the strategy is necessary to achieve the goals of the water conservation plan:

- (A) conservation-oriented water rates and water rate structures such as uniform or increasing block rate schedules, and/or seasonal rates, but not flat rate or decreasing block rates;
- (B) adoption of ordinances, plumbing codes, and/or rules requiring water-conserving plumbing fixtures to be installed in new structures and existing structures undergoing substantial modification or addition;
- (C) a program for the replacement or retrofit of water-conserving plumbing fixtures in existing structures;
- (D) reuse and/or recycling of wastewater and/or graywater;
- (E) a program for pressure control and/or reduction in the distribution system and/or for customer connections;
- (F) a program and/or ordinance(s) for landscape water management;
- (G) a method for monitoring the effectiveness and efficiency of the water conservation plan; and
- (H) any other water conservation practice, method, or technique which the water supplier shows to be appropriate for achieving the stated goal or goals of the water conservation plan.

(b) A water conservation plan prepared in accordance with 31 TAC §363.15 (relating to Required Water Conservation Plan) of the Texas Water Development Board and substantially meeting the requirements of this section and other applicable commission rules may be submitted to meet application requirements in accordance with a memorandum of understanding between the commission and the Texas Water Development Board.

(c) Beginning May 1, 2005, a public water supplier for municipal use shall review and update its water conservation plan, as appropriate, based on an assessment of previous five-year and ten-year targets and any other new or updated information. The public water supplier for municipal use shall review and update the next revision of its water conservation plan not later than May 1, 2009, and every five years after that date to coincide with the regional water planning group.

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**Source Note:** The provisions of this §288.2 adopted to be effective May 3, 1993, 18 TexReg 2558; amended to be effective February 21, 1999, 24 TexReg 949; amended to be effective April 27, 2000, 25 TexReg 3544; amended to be effective October 7, 2004, 29 TexReg 9384

	<b>Texas Administrative Code</b>
<b><u>TITLE 30</u></b>	ENVIRONMENTAL QUALITY
<b><u>PART 1</u></b>	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
<b><u>CHAPTER 288</u></b>	WATER CONSERVATION PLANS, DROUGHT CONTINGENCY PLANS, GUIDELINES AND REQUIREMENTS
<b><u>SUBCHAPTER B</u></b>	DROUGHT CONTINGENCY PLANS
<b>RULE §288.20</b>	<b>Drought Contingency Plans for Municipal Uses by Public Water Suppliers</b>

- 
- (a) A drought contingency plan for a retail public water supplier, where applicable, must include the following minimum elements.
- (1) Minimum requirements. Drought contingency plans must include the following minimum elements.
- (A) Preparation of the plan shall include provisions to actively inform the public and affirmatively provide opportunity for public input. Such acts may include, but are not limited to, having a public meeting at a time and location convenient to the public and providing written notice to the public concerning the proposed plan and meeting.
  - (B) Provisions shall be made for a program of continuing public education and information regarding the drought contingency plan.
  - (C) The drought contingency plan must document coordination with the regional water planning groups for the service area of the retail public water supplier to ensure consistency with the appropriate approved regional water plans.
  - (D) The drought contingency plan must include a description of the information to be monitored by the water supplier, and specific criteria for the initiation and termination of drought response stages, accompanied by an explanation of the rationale or basis for such triggering criteria.
  - (E) The drought contingency plan must include drought or emergency response stages providing for the implementation of measures in response to at least the following situations:
    - (i) reduction in available water supply up to a repeat of the drought of record;
    - (ii) water production or distribution system limitations;
    - (iii) supply source contamination; or
    - (iv) system outage due to the failure or damage of major water system components (e.g., pumps).
  - (F) The drought contingency plan must include the specific, quantified targets for water use reductions to be achieved during periods of water shortage and drought. The entity preparing the plan shall establish the targets. The goals established by the entity under this subparagraph are not enforceable.
  - (G) The drought contingency plan must include the specific water supply or water demand management measures to be implemented during each stage of the plan including, but not limited to, the following:
    - (i) curtailment of non-essential water uses; and
    - (ii) utilization of alternative water sources and/or alternative delivery mechanisms with the prior approval of the executive director as appropriate (e.g., interconnection with another water system, temporary use of a non-municipal water supply, use of reclaimed water for non-potable purposes, etc.).
  - (H) The drought contingency plan must include the procedures to be followed for the initiation or termination of each drought response stage, including

procedures for notification of the public.

- (I) The drought contingency plan must include procedures for granting variances to the plan.
  - (J) The drought contingency plan must include procedures for the enforcement of any mandatory water use restrictions, including specification of penalties (e.g., fines, water rate surcharges, discontinuation of service) for violations of such restrictions.
- (2) Privately-owned water utilities. Privately-owned water utilities shall prepare a drought contingency plan in accordance with this section and incorporate such plan into their tariff.
- (3) Wholesale water customers. Any water supplier that receives all or a portion of its water supply from another water supplier shall consult with that supplier and shall include in the drought contingency plan appropriate provisions for responding to reductions in that water supply.
- (b) A wholesale or retail water supplier shall notify the executive director within five business days of the implementation of any mandatory provisions of the drought contingency plan.
- (c) The retail public water supplier shall review and update, as appropriate, the drought contingency plan, at least every five years, based on new or updated information, such as the adoption or revision of the regional water plan.

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**Source Note:** The provisions of this §288.20 adopted to be effective February 21, 1999, 24 TexReg 949; amended to be effective April 27, 2000, 25 TexReg 3544; amended to be effective October 7, 2004, 29 TexReg 9384.

**APPENDIX C  
TCEQ WATER UTILITY PROFILE**



**Texas Commission on Environmental Quality**  
**UTILITY PROFILE & WATER CONSERVATION**  
**PLAN REQUIREMENTS**  
**FOR MUNICIPAL WATER USE BY PUBLIC WATER**  
**SUPPLIERS**

This form is provided to assist entities in water conservation plan development for municipal water use by a retail public water supplier. Information from this form should be included within a water conservation plan for municipal use. If you need assistance in completing this form or in developing your plan, please contact the conservation staff of the Resource Protection Team in the Water Supply Division at (512) 239-4691.

**Name of Entity:** \_\_\_\_\_

**Address & Zip:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Form Completed By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Name and Phone Number of Person/Department responsible for implementing a water conservation program:** \_\_\_\_\_

**UTILITY PROFILE**

**I. POPULATION AND CUSTOMER DATA**

**A. Population and Service Area Data**

1. Attach a copy of your service-area map and, if applicable, a copy of your Certificate of Convenience and Necessity (CCN).
2. Service area size (square miles): \_\_\_\_\_

3. Current population of service area: \_\_\_\_\_

4. Current population served:

a. water \_\_\_\_\_

b. wastewater \_\_\_\_\_

5. Population served by water utility for the previous five years:

6. Projected population for service area in the following decades:

Year	Population	Year	Population
_____	_____	<u>2010</u>	_____
_____	_____	<u>2020</u>	_____
_____	_____	<u>2030</u>	_____
_____	_____	<u>2040</u>	_____
_____	_____	<u>2050</u>	_____

7. List source/method for the calculation of current and projected population:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**B. Active Connections**

1. Current number of active connections. Check whether multi-family service is counted as Residential \_\_\_\_\_ or Commercial \_\_\_\_\_

Treated water users:	Metered	Not-metered	Total
Residential	_____	_____	_____
Commercial	_____	_____	_____
Industrial	_____	_____	_____
Other	_____	_____	_____

2. List the net number of new connections per year for most recent three years:

Year	_____	_____	_____
Residential	_____	_____	_____
Commercial	_____	_____	_____
Industrial	_____	_____	_____
Other	_____	_____	_____

**C. High Volume Customers**

List annual water use for the five highest volume customers  
(indicate if treated or raw water delivery)

	Customer	Use (1,000gal./yr.)	Treated/Raw Water
(1)	_____	_____	_____
(2)	_____	_____	_____
(3)	_____	_____	_____
(4)	_____	_____	_____
(5)	_____	_____	_____

**II. WATER USE DATA FOR SERVICE AREA**

**A. Water Accounting Data**

1. Amount of water use for previous five years (in 1,000 gal.):

Please indicate :      Diverted Water \_\_\_\_\_  
    Treated Water      \_\_\_\_\_

Year	_____	_____	_____	_____	_____
January	_____	_____	_____	_____	_____
February	_____	_____	_____	_____	_____
March	_____	_____	_____	_____	_____

April	_____	_____	_____	_____	_____
May	_____	_____	_____	_____	_____
June	_____	_____	_____	_____	_____
July	_____	_____	_____	_____	_____
August	_____	_____	_____	_____	_____
September	_____	_____	_____	_____	_____
October	_____	_____	_____	_____	_____
November	_____	_____	_____	_____	_____
December	_____	_____	_____	_____	_____
<b>Total</b>	_____	_____	_____	_____	_____

Indicate how the above figures were determined (e.g., from a master meter located at the point of a diversion from the source or located at a point where raw water enters the treatment plant, or from water sales).

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. Amount of water (in 1,000 gallons) delivered (sold) as recorded by the following account types for the past five years.

Year	Residential	Commercial	Industrial	Wholesale	Other	Total Sold
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

3. List previous five years records for water loss (the difference between water diverted (or treated) and water delivered (or sold))

Year	Amount (gal.)	%
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. Municipal water use for previous five years:

Year	Population	Total Water Diverted or Pumped for Treatment (1,000 gal.)
------	------------	--

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**B. Projected Water Demands**

If applicable, attach projected water supply demands for the next ten years using information such as population trends, historical water use, and economic growth in the service area over the next ten years and any additional water supply requirement from such growth.

**III. WATER SUPPLY SYSTEM DATA**

**A. Water Supply Sources**

List all current water supply sources and the amounts authorized with each:

	Source	Amount Authorized
Surface Water:	_____	_____ acre-feet
Groundwater:	_____	_____ acre-feet
Contracts:	_____	_____ acre-feet
Other:	_____	_____ acre-feet

**B. Treatment and Distribution System**

1. Design daily capacity of system: \_\_\_\_\_ MGD
2. Storage Capacity: Elevated \_\_\_\_\_ MGD, Ground \_\_\_\_\_ MGD
3. If surface water, do you recycle filter backwash to the head of the plant?  
Yes \_\_\_\_\_ No \_\_\_\_\_. If yes, approximately \_\_\_\_\_ MGD.
4. Please attach a description of the water system. Include the number of

treatment plants, wells, and storage tanks. If possible, include a sketch of the system layout.

**IV. WASTEWATER SYSTEM DATA**

**A. Wastewater System Data**

1. Design capacity of wastewater treatment plant(s): \_\_\_\_\_ MGD
2. Is treated effluent used for irrigation on-site \_\_\_\_\_, off-site \_\_\_\_\_, plant washdown \_\_\_\_\_, or chlorination/dechlorination \_\_\_\_\_? If yes, approximately \_\_\_\_\_ gallons per month.
3. Briefly describe the wastewater system(s) of the area serviced by the water utility. Describe how treated wastewater is disposed of. Where applicable, identify treatment plant(s) with the TCEQ name and number, the operator, owner, and, if wastewater is discharged, the receiving stream. If possible, attach a sketch or map which locates the plant(s) and discharge points or disposal sites.

**B. Wastewater Data for Service Area**

1. Percent of water service area served by wastewater system: \_\_\_\_\_%
2. Monthly volume treated for previous three years (in 1,000 gallons):

Year	_____	_____	_____
January	_____	_____	_____
February	_____	_____	_____
March	_____	_____	_____
April	_____	_____	_____
May	_____	_____	_____
June	_____	_____	_____
July	_____	_____	_____
August	_____	_____	_____
September	_____	_____	_____
October	_____	_____	_____
November	_____	_____	_____
December	_____	_____	_____
<b>Total</b>	_____	_____	_____

**APPENDIX D**  
**NTMWD MEMBER CITY AND CUSTOMER ANNUAL WATER CONSERVATION REPORT**

**APPENDIX D**  
**NTMWD MEMBER CITY AND CUSTOMER ANNUAL WATER CONSERVATION REPORT**  
 Due: March 31 of every year

Entity Reporting: \_\_\_\_\_  
 Filled Out By: \_\_\_\_\_  
 Date Completed: \_\_\_\_\_  
 Year Covered: \_\_\_\_\_  
 # of Connections \_\_\_\_\_

**Recorded Deliveries and Sales by Month (in Million Gallons):**

Month	Deliveries from NTMWD	Other Supplies	Sales by Category				Total
			Residential	Commercial	Public/Institutional	Industrial	
January							0.000
February							0.000
March							0.000
April							0.000
May							0.000
June							0.000
July							0.000
August							0.000
September							0.000
October							0.000
November							0.000
December							0.000
<b>TOTAL</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>	<b>0.000</b>

**Unaccounted Water (Million Gallons):**

NTMWD Deliveries 0.000 from Table above  
 Other Supplies 0.000 from Table above  
 Total Supplies 0.000 from Table above  
 Total Sales 0.000 from Table above  
 Estimated Fire Use estimated from best available data  
 Estimated Line Flushing Use estimated from best available data  
 Unaccounted Water 0.000  
 % Unaccounted #DIV/0!  
 Goal for % Unaccounted 12.00%

**Per Capita Municipal Use (Gallons per person per day)**  
 0.000 from Table above (NTMWD deliveries+ other supplies - industrial sales - municipal sales - other sales)  
 Municipal Use (MG)  
 Estimated Population #DIV/0!  
 (gpcd)  
 5-year Per Capita Goal ( )  
 10-year Per Capita Goal ( )

**Recorded Wholesale Sales by Month (in Million Gallons):**

Month	Sales to	Total Wholesale Sales							
January									0.000
February									0.000
March									0.000
April									0.000
May									0.000
June									0.000
July									0.000
August									0.000
September									0.000
October									0.000
November									0.000
December									0.000
<b>TOTAL</b>	<b>0.000</b>								

**Information on Wholesale Customers:**

Estimated  
 Population

Customer

**Unusual Circumstances (use additional sheets if necessary):**

--

**Progress in Implementation of Conservation Plan (use additional sheets if necessary):**

--

**Conservation measures planned for next year (use additional sheets if necessary):**

--

Assistance requested from North Texas Municipal Water District (use additional sheets if necessary):

--

Other (use additional sheets if necessary):

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**APPENDIX E**  
**LANDSCAPE WATER MANAGEMENT REGULATIONS**

**ORDINANCE NO. 2009-5-14**  
**(Zoning Case 2009-02)**

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING SECTION 3.1200 (LANDSCAPING REQUIREMENTS) 6. (LANDSCAPE PLAN APPROVAL) C. OF ARTICLE 3 (SUPPLEMENTARY REGULATIONS) AND RELATED SECTIONS OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, REGARDING THE ESTIMATION OF ANNUAL LANDSCAPE WATER REQUIREMENTS; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 11th day of May, 2009, for the purpose of considering a change in the Zoning Ordinance; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 11th day of May, 2009; and

**WHEREAS**, the City Council is of the opinion and finds that such change would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section 1.** Section 3.1200 (Landscaping Requirements) 6. (Landscape Plan Approval) c. of Article 3 (Supplementary Regulations) of the Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended regarding the estimation of annual landscape water requirements, and, such portion of the section to read in its entirety as follows:

**APPENDIX F  
WATER CONSERVATION REBATE PROGRAM  
(PENDING)**

**APPENDIX G  
TCEQ WATER CONSERVATION IMPLEMENTATION REPORT**

	<p><b>Texas Commission on Environmental Quality</b></p> <p><b>Water Conservation Implementation Report</b></p> <p>This report must be completed by entities that are required to submit a water conservation plan to the TCEQ in accordance with Title 30 Texas Administrative Code, Chapter 288. Please complete this report and submit it to the TCEQ. If you need assistance in completing this form, please contact the Resource Protection Team in the Water Supply Division at (512) 239-4691.</p>
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**Entity Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Form Completed By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**I. WATER USES**

Indicate the type(s) of water uses (example: municipal, industrial, or agricultural).

\_\_\_\_\_ Use

\_\_\_\_\_ Use

\_\_\_\_\_ Use

**II. WATER CONSERVATION MEASURES IMPLEMENTED**

Provide the water conservation measures and the dates the measures were implemented.

Description of Water Conservation Measure: \_\_\_\_\_

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Date Implemented: \_\_\_\_\_

Description of Water Conservation Measure: \_\_\_\_\_

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Date Implemented: \_\_\_\_\_

Description of Water Conservation Measure: \_\_\_\_\_

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Date Implemented: \_\_\_\_\_

Description of Water Conservation Measure: \_\_\_\_\_

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Date Implemented: \_\_\_\_\_

Description of Water Conservation Measure: \_\_\_\_\_

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Date Implemented: \_\_\_\_\_

Description of Water Conservation Measure: \_\_\_\_\_

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Date Implemented: \_\_\_\_\_

Description of Water Conservation Measure: \_\_\_\_\_

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Date Implemented: \_\_\_\_\_

Description of Water Conservation Measure: \_\_\_\_\_

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Date Implemented: \_\_\_\_\_

Description of Water Conservation Measure: \_\_\_\_\_

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Date Implemented: \_\_\_\_\_

**III. TARGETS**

- A. Provide the **specific and quantified five and ten-year targets** as listed in water conservation plan for previous planning period.

5-Year Specific/Quantified Target: \_\_\_\_\_

Date to achieve target: \_\_\_\_\_

10-Year Specific/Quantified Target: \_\_\_\_\_

Date to achieve target: \_\_\_\_\_

- B. State if these targets in the water conservation plan are being met.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- C. List the **actual amount of water saved**.

\_\_\_\_\_

\_\_\_\_\_

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- D. If the targets are not being met, provide an explanation as to why, including any progress on the targets.

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**APPENDIX H**  
**ILLEGAL WATER CONNECTIONS AND THEFT OF WATER ORDINANCE**  
**Ordinance No. 62-3-3**

Sec. 21-17. Miscellaneous offenses relating to waterworks system.

It shall be unlawful for any person to do, commit or assist in committing any of the following things or acts in the city:

- (1) Opening or closing any fire hydrant, or lifting or removing any covers of any gate valves or shut-offs connected with the waterworks system of the city, without the permission of the superintendent of the water department, except in case of fire, and then under the direction of officers of the fire department. It shall be an exception however, that a property owner or occupant may access the property's water meter box for the sole purpose of turning water on or off at the city valve;
  - (2) Interfering with, destroying, defacing, impairing, injuring, or wantonly forcing open any gate or door, or in any way whatsoever destroying, injuring, or defacing any part of any engine house, reservoir, standpipe, elevated tank, building, or appurtenances, fences, trees, shrubs, or fixtures or property appertaining to the waterworks system;
  - (3) Going upon or ascending the stairway or steps of any elevated water tank or standpipe of the waterworks system, except by permission of the waterworks superintendent;
  - (4) Placing any telegraph, telephone, electric light pole, or any obstruction whatsoever within ten (10) feet of any fire hydrant;
  - (5) Resorting to any fraudulent device or arrangement for the purpose of procuring water for himself or others from private connections or premises contrary to city regulation or ordinances;
  - (6) Interfering with or injuring any reservoir, tank, fountain, hydrant, pipe, cock, valve, or other apparatus pertaining to the waterworks system, or turning on or shutting off without authority the water in any street hydrant or other water fixture, or hitching or tying any animal thereto;
  - (7) Making or permitting to be made any connection with the main or service pipe of the waterworks system or turning on or using the water of such system without first obtaining a permit therefor;
  - (8) Covering over or concealing from view any water valve box, service or meter box;
  - (9) Removing any water meter that has been placed by the city, or changing, interfering with or tampering with any water meter in any manner; this paragraph shall not apply to employees of the city, when acting in their official capacity;
  - (10) Turning on the water supply to any building or to any supply pipe where the supply has been turned off for the nonpayment of the monthly water charges or for the violation of any rule or ordinance governing the waterworks system.
- (Ord. No. 62-3-3, § 12-12-2, 3-12-62; 92-11-22, § I, 11-9-92)

Sec. 21-18. Connection--Permit.

It shall be unlawful for any person to make any connection to the mains or pipes of the waterworks system of the city unless a permit authorizing such connection has been issued by the city secretary. Application for such permit shall be filed with the city secretary. Such application shall state fully the several and various uses for which water is wanted, giving the name of the owner of the property, the number of the lot and block, the name of the street and the house number. If the application is approved, the city secretary shall issue the permit.

(Ord. No. 62-3-3, § 12-12-3, 3-12-62)

**APPENDIX I  
WATER RATE STRUCTURE**

Ordinance 2009-2-15 provides an increasing block rate structure and lists the minimum charge and base charges for all tiers for the residential and commercial/industrial water rates. The Plano water rate structure is as follows:

RESIDENTIAL Minimum Charge - Meter Size		
Meter Size	Water	Sewer
5/8 and 3/4	\$15.07	\$12.24
1 inch	\$15.07	\$12.24
1-1/2 inch	\$66.68	\$12.24
2 inch	\$.105.24	\$12.24

**RESIDENTIAL CONSUMPTION CHARGES**

WATER	
First 1,000 gallons	Included in minimum meter charge
1,001-5,000 gallons	\$0.35 per 1,000 gallons
All over 5,000 gallons	\$1.79 per 1,000 gallons
All over 20,000 gallons for water consumed April 1 through October 31 (on all meters, including separately metered irrigation use systems)	\$3.57 per 1,000 gallons

SEWER	
First 1,000 gallons	Included in minimum meter charge
All over 1,000 gallons	\$4.26 per 1,000 gallons
<b><u>Winter Quarter Averaging</u></b> - Sewer charges on residential accounts are billed based on the Winter Quarter Averages of three consecutive winter periods.	

NON-RESIDENTIAL Minimum Charge - Meter Size		
Meter Size	Water	Sewer
5/8 and 3/4	\$15.07	\$12.24
1 inch	\$34.04	\$23.88
1-1/2 inch	\$66.68	\$43.19
2 inch	\$105.24	\$66.42
3 inch	\$208.02	\$128.28
4 inch	\$323.76	\$197.84
6 inch	\$645.12	\$391.19
8 inch	\$1030.75	\$582.11
10 inch	\$1,480.79	\$893.86

#### NON-RESIDENTIAL CONSUMPTION CHARGES

Water	
First 1,000 gallons	Included in minimum meter charge
1,001-5,000 gallons	\$0.35 per 1,000 gallons
All over 5,000 gallons	\$1.79 per 1,000 gallons
<b>Separately metered irrigation use systems</b> All over 20,000 gallons Consumed April 1 thru October 31 (summer)	\$3.57 per 1,000 gallons

Sewer	
First 1,000 gallons	Included in minimum meter charge
All over 1,000 gallons	\$4.26 per 1,000 gallons

Maximum charge (cap) for Evaporative Cooling Towers (separately metered) and Commercial Swimming Pools is 12,000 gallons.

There is no sewer charge for separately metered landscape irrigation systems.

**APPENDIX J**  
**ADOPTION OF WATER MANAGEMENT PLAN**  
**Resolution No.**

**APPENDIX K**  
**DROUGHT CONTINGENCY & WATER EMERGENCY RESPONSE ORDINANCE**  
**Ordinance No. 2009-10-18**

ORDINANCE NO. 2009-10-18

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING ORDINANCE NO. 2006-11-18 IN ITS ENTIRETY, WHICH WAS CODIFIED AS CHAPTER 21, ARTICLE II, DIVISION 4, DROUGHT CONTINGENCY PLAN, OF THE CODE OF ORDINANCES OF THE CITY OF PLANO; ADOPTING A NEW DROUGHT CONTINGENCY PLAN TO BE CODIFIED AS CHAPTER 21, ARTICLE II, DIVISION 4 OF THE CODE OF ORDINANCES OF THE CITY OF PLANO; ESTABLISHING PROCEDURES AND CRITERIA FOR DECLARING A WATER EMERGENCY AND IMPLEMENTING AND TERMINATING DROUGHT RESPONSE STAGES; ESTABLISHING RESTRICTIONS ON CERTAIN WATER USES DURING DROUGHT RESPONSE STAGES; ESTABLISHING ADMINISTRATIVE REMEDIES AND CRIMINAL PENALTIES FOR VIOLATING THE RESTRICTIONS AND PROVISIONS FOR ENFORCEMENT OF THESE RESTRICTIONS; AND PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE; AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

**WHEREAS**, in August, 2004, the North Texas Municipal Water District ("NTMWD") developed a model drought contingency plan in accordance with state law and has requested all member cities to adopt this plan; and

**WHEREAS**, a public hearing was conducted on May 22, 2006, to require input from the public on this drought ordinance plan; and

**WHEREAS**, on May 22, 2006, by Ordinance No. 2006-5-23, the City Council of the City of Plano adopted a Drought Contingency Plan to be implemented in the event of a water shortage, such Ordinance was codified as Division 4, Article II, Chapter 21 of the City of Plano Code of Ordinances; and

**WHEREAS**, NTMWD prepared a model drought contingency and water emergency response plan in March 2008, to address current Texas Commission on Environmental Quality ("TCEQ") requirements and to replace the plan dated August 2004, and revised in April 2006; and

**WHEREAS**, the City of Plano has reviewed the model plan and determined those elements and activities to be included in it plan;

**WHEREAS**, the City Council for the City of Plano, Texas ("City Council") has determined that the current drought contingency plan created by City Ordinance No. 2006-11-18 should be repealed in its entirety and replaced with this ordinance; and

**WHEREAS**, the City Council hereby finds and determines that the repeal of the previous drought contingency plan and the enactment of this drought contingency plan is in the best interest of the City of Plano and its citizens and should be adopted as set forth below.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY CODE OF THE CITY OF PLANO, TEXAS THAT:**

**Section I.** Ordinance No. 2006-5-23 duly passed approved by the City Council of the City of Plano, Texas, on May 22, 2006, and Ordinance No. 2007-3-10 is hereby repealed in its entirety and replaced by this ordinance.

**Section II.** The Drought Contingency Plan which follows the NTMWD model and complies with the regulations and requirements of the Texas Water Code and TCEQ are hereby adopted and codified as Division 4, Drought Contingency Plan, of Article II, Water, of Chapter 21, Utilities of the Code of Ordinances of the City of Plano shall read as follows:

**“DIVISION 4: DROUGHT CONTINGENCY PLAN”**

**Sec. 21-53. Purpose and Scope**

(a) The North Texas Municipal Water District (NTMWD) supplies treated water to the City of Plano, as well as other member cities and customers. A model drought contingency plan was developed by NTMWD in accordance with the regulations and requirements of the Texas Administration Code ("TAC") and the Texas Commission on Environmental Quality ("TCEQ") and consultation with its member cities. The NTMWD model plan calls for member cities and customers to adopt similar criteria and procedures for declaring a water emergency and implementing drought or emergency response stages as used by NTMWD. Member cities and customers may also adopt more stringent drought stages than NTMWD if conditions warrant. The following ordinance is written in accordance with TAC and the NTMWD's model drought contingency plan.

(b) There is hereby established a City of Plano Drought Contingency Plan (in this division called "the Plan") to provide procedures for:

- (1) Conserving the available water supply in times of drought and emergency;
- (2) Maintaining supplies for domestic water use, sanitation, and fire protection;
- (3) Protecting and preserving public health, safety, and welfare;

- (4) Minimizing the adverse impacts of water supply shortages; and
  - (5) Minimizing the adverse impacts of emergency water supply conditions.
- (c) The plan applies to:
- (1) All persons and premises within the city using water from the city's water system ("the system");
  - (2) All wholesale contract customers; and
  - (3) All retail customers who live in unincorporated areas within the city's extraterritorial jurisdiction and are served by the system.

**Sec. 21-54. Exemption**

The governmental use of water for essential services such as police, fire, and emergency services which is necessary to preserve or protect the health, safety and welfare of the citizens of Plano are exempt from any and all restrictions or mandates set forth in the Plan.

**Sec. 21-55. Definitions**

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*'Customer'* means a person, company or other entity connected to the City's water system and contracting with the City of Plano to receive potable water service.

*'Low Flow Irrigation'* means irrigation systems using devices and components that emit water at a low volume and may be designed for specific types of plant material. These irrigation devices or components limit the amount and location of water being applied. Examples include micro-irrigation (emitters and drip tubes), irrigation (bubbler and low flow spray) heads used for watering trees, soaker hoses, etc.

*'Foundation'* means area that includes first 24" of soil from foundation slab.

*'General emergency'* means a condition in which the existing or projected water supply available to the city is not anticipated to meet the normal water requirements of metered water users. This condition may be the result of factors including, but

not limited to, natural emergency conditions (i.e., drought, etc.) and/or a failure of the city's or its supplier's water distribution systems.

*'Landscape'* means natural plant materials around buildings or on grounds (i.e., trees, shrubbery, grasses and flowers) but excludes athletic fields and high use areas.

*'Landscape beds'* means plants and shrubs that are separated from turf.

*'North Texas Municipal Water District'* or "NTMWD" refers to the North Texas Municipal Water District.

*'Plan'* refers to the City of Plano Drought Contingency Plan.

*'Person'* means owner, occupant, or person in control of the premises or a person authorized by the owner, occupant, or person in control of the premises.

*'Potable water'* means any public water supply, which has been investigated and approved by the TCEQ as satisfactory for drinking, culinary and domestic purposes.

*'Public Health and Safety'* means such amount of water as necessary to sustain human life, reasonable standards of hygiene and sanitation, and fire suppression.

*'Putting Green'* means the ground that is specially prepared for putting. The putting green is typically defined by a fine bladed grass that requires an extremely high level of maintenance to provide a smooth surface for rolling the ball when putting.

*'System'* means the City of Plano water works system and shall include, but not be limited to, all reservoirs, storage tanks, elevated tanks, pipelines, pumps, hydrants, meters, valves, connections, engines, and all other property and machinery used in connection with the City's water works system.

*'Tee Box'* means the rectangular area considered the starting place for the hole to be played. The tee box is typically defined by a grass that requires a very high level of maintenance and mowed at a low height to provide a consistent surface to begin play on the hole.

*'Athletic Fields'* means turf or play surfaces that are provided by government agencies for public or non-profit sporting activities and events. The athletic field is typically defined by a grass that requires a very high level of maintenance and mowed at a low height to provide a consistent and safe play surface.

*'High Use Areas'* means publicly owned properties that have irrigated surfaces where there is a high volume of public use and there may be a significant increase in risk and liability if surfaces are not minimally irrigated to mitigate safety hazards to users caused by lack of water.

*'Ornamental Fountains'* means water features used for aesthetic or cosmetic purposes only that must use, or be refilled with, potable water. This shall not include pond aerifiers and other water recycling devices used to mitigate stagnant conditions in lakes, ponds, or other natural bodies of water.

*'Central Controlled Irrigation Systems'* means large scale, technically advanced systems used to water large or multiple sites from a central location. This "Smart" technology can monitor and adapt system operation and irrigation run times in response to conditions in the system or surrounding areas. (weather conditions, pipe breaks, etc.) These systems may also be easily programmed to reduce flow rates or the amount of water applied to meet required reduction percentages and provide historical data or reports.

#### **Sec. 21-56. Presumption**

For purposes of enforcement of administrative remedies and criminal penalties under this ordinance, it shall be presumed that the person in actual control of the watering or irrigation devices for a premise is responsible for any violations of this ordinance. The requirement of a culpable mental state is expressly waived for any administrative or criminal penalty or remedy.

#### **Sec. 21-57. Authority to Declare Water Emergency**

(a) The City Manager or the official designee may order the implementation of a drought or water emergency response stage when one or more of the trigger conditions for that stage are met. The following actions will be taken when a drought or water emergency response stage is initiated:

- (1) The public will be notified in accordance with Sec. 21.58.
- (2) NTMWD will be notified by e-mail with a follow-up letter or fax that provides details of the reasons for initiation of the drought/water emergency response stage.
- (3) If any mandatory provisions of the drought contingency and water emergency response plan are activated, the City of Plano will notify the Executive Director of the TCEQ and the Executive Director of the NTMWD within five (5) business days.

(b) Drought contingency/water emergency response stages imposed by NTMWD action may be initiated by the City of Plano. For trigger conditions internal to the City of Plano, the City Manager or official designee may decide not to order the implementation of a drought response stage or water emergency even though one or more of the trigger criteria for the stage are met. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, the anticipation of replenished water supplies, or the anticipation that additional facilities will become available to meet needs. The reason for this decision should be documented.

(c) In the event of a city-wide emergency, the order shall be made by public announcement in the City within twenty-four (24) hours of implementation. In the event of an emergency of limited geographically extent, door-to-door notification shall be made by door hangers and/or in person.

#### **Sec. 21-58. Notification and Termination of Water Emergency**

(a) Notification of Water Emergency – The City of Plano will inform and educate the public about the drought contingency and water emergency response plan by the following means:

- (1) Preparing a bulletin describing the plan and making it available at city hall and other appropriate locations.
- (2) Making the plan available to the public through the City's Web site.
- (3) Including information about the drought contingency and water emergency response plan on the City's Web site.
- (4) Notifying local organizations, schools, and civic groups that staff are available to make presentations on the drought contingency and water emergency response section of the Water Management Plan (usually in conjunction with presentations on water conservation programs).
- (5) At any time that the drought contingency and water emergency response plan is activated or the drought stage or water emergency response stage changes, the City of Plano will notify local media of the issues, the drought response stage or water emergency response stage (if applicable), and the specific actions required of the public. The information will also be publicized on the City's Web site. Utility Bill inserts and direct mail to each utility customer will also be used as appropriate.

(b) Violations Following Notification - No criminal citation or administrative fee for violating any of the water use restrictions set forth in Drought or Emergency Response Stages 2, 3 or 4 will be issued until the notice of a water emergency or notice of

drought response stage has been published in at least one issue of a newspaper in general circulation in the City of Plano.

Sec. 21-59. Initiation and Termination of Drought or Emergency Response Stages

A drought is defined as an extended period of time when an area receives insufficient amounts of rainfall to replenish the water supply, causing water supply sources, in this case reservoirs, to be depleted. In the absence of drought response measures, water demands tend to increase during a drought due to the need for additional outdoor irrigation. The severity of a drought depends on the degree of depletion of supplies and on the relationship of demand to available supplies. The NTMWD considers a drought to end when all of its supply reservoirs refill to the conservation storage pool.

(a) Initiation of a Drought or Emergency Response Stage – The City Manager or Deputy City Manager in his absence is authorized to initiate a drought or emergency response stage when one or more of the criteria applicable to that stage are triggered.

(b) Notification to Public – The following actions will be taken to notify the public when a drought emergency response stage is initiated or raised.

- (1) The public will be notified of the implementation or amendment of a drought or emergency response stage in the manner set forth in Sec. 21-58 above;
- (2) Wholesale customers and the NTMWD will be notified by telephone with a follow-up letter, e-mail or facsimile transmission;
- (3) If any mandatory provisions of the drought or emergency response contingency plan are activated, notification will be sent to the Executive Director of the TCEQ within five (5) business days:

(c) Drought or Emergency Response Stages Imposed by NTMWD – The City Manager or his authorized designee may elect not to implement a drought or emergency response stage depending on all relevant factors. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, the anticipation of replenished water supplies, or the anticipation that additional facilities will become available to meet needs. The reason for this decision should be documented.

(d) Termination of a Drought or Emergency Response Stage – The drought or emergency response stage shall remain in effect until the City Manager or Deputy City Manager in his absence determines that the conditions that triggered the drought response stage have been alleviated or no longer exist or lake levels established by NTMWD for termination are met.

(e) Notification of Public – The following actions will be taken to notify the public when a drought or emergency response stage is terminated or lowered:

- (1) The public will be notified of the termination or lowering of a drought or emergency response stage in the manner provided in Sec. 21-58 herein;
- (2) Wholesale customers and the NTMWD will be notified by telephone with a follow-up letter, e-mail, or facsimile transmission;
- (3) If any mandatory provisions of the drought response contingency plan are terminated, the Executive Director of the TCEQ will be notified within five (5) business days.

**Sec. 21-59.1 Initiation and Termination Conditions for Stage 1**

The NTMWD has initiated Stage 1, which may be initiated due to one or more of the following:

- (1) The NTMWD Executive Director, with the concurrence of the NTMWD Board of Directors, finds that conditions warrant the declaration of Stage 1.
- (2) Water demand is projected to approach the limit of the permitted supply.
- (3) The storage in Lavon Lake is less than 65 percent of the total conservation pool capacity.
- (4) NTMWD's storage in Jim Chapman Lake is less than 65 percent of NTMWD's total conservation pool capacity.
- (5) The Sabine River Authority has indicated that its Upper Basin water supplies used by NTMWD (Lake Tawakoni and/or Lake Fork) are in a mild drought.
- (6) NTMWD has concern that Lake Texoma, the East Fork Raw Water Supply Project, or some other NTMWD source may be limited in availability in the next six (6) months.
- (7) NTMWD water demand exceeds 90 percent of the amount that can be delivered to customers for three (3) consecutive days.
- (8) Water demand for all or part of NTMWD's delivery system approaches delivery capacity because delivery capacity is inadequate.

- (9) NTMWD's supply source becomes contaminated.
- (10) NTMWD's water supply system is unable to deliver water due to the failure or damage of major water system components.
- (11) Plano's water demand exceeds 90 percent of the amount that can be delivered to customers for three (3) consecutive days.
- (12) Plano's water demand for all or part of the delivery system approaches delivery capacity because delivery capacity is inadequate.
- (13) Plano's supply source becomes contaminated.
- (14) Plano's water supply system is unable to deliver water due to the failure or damage of major water system components.
- (15) Other criteria as determined by the City of Plano.

(b) Stage 1 may terminate when NTMWD terminates its Stage 1 condition or when the circumstances that caused the initiation of Stage 1 no longer prevail.

**Sec. 21-59.2 Goals for Use Reduction and Actions Available Under Stage 1**

(a) Stage 1 is intended to raise public awareness of potential drought or water emergency problems. The goal for water use reduction under Stage 1 is a **two (2) percent reduction** in the amount of water produced by NTMWD.

(b) The City Manager or official designee may order the implementation of any of the actions listed below, as deemed necessary:

- (1) Request voluntary reductions in water use by the public and by wholesale customers.
- (2) Emphasize City's water conservation policy of restricting landscape and lawn irrigation from 10 AM to 6 PM beginning April 1 through October 31.
- (3) Increase public education efforts on ways to reduce water use.
- (4) Review the problems that caused the initiation of Stage 1.
- (5) Intensify efforts on leak detection and repair.
- (6) Reduce non-essential city government water use. (Examples include street cleaning, vehicle washing, operation of ornamental fountains, etc.)

- (7) Notify major water users and work with them to achieve voluntary water use reductions.
- (8) Reduce city government irrigation water use to meet or exceed reduction goal for the stage.
- (9) Prohibit watering areas that have been overseeded with cool season grasses (such as rye grass or other similar grasses) except for golf courses, athletic fields, erosion protection, public use areas related to public safety, and for locations using on-site well water or properly permitted on-site creek withdrawals.
- (10) Increase notification and enforcement measures to prohibit use of poorly maintained irrigation systems and correct fugitive water issues.

**Sec. 21-59.3 Initiation and Termination Conditions for Stage 2**

(a) The NTMWD has initiated Stage 2, which may be initiated due to one or more of the following:

- (1) The NTMWD Executive Director, with the concurrence of the NTMWD Board of Directors, finds that conditions warrant the declaration of Stage 2.
- (2) Water demand is projected to approach the limit of the permitted supply.
- (3) The storage in Lavon Lake is less than 55 percent of the total conservation pool capacity.
- (4) NTMWD's storage in Jim Chapman Lake is less than 55 percent of NTMWD's total conservation pool capacity.
- (5) NTMWD has concern that Lake Texoma, the East Fork Raw Water Supply Project, or some other NTMWD source may be limited in availability in the next 3 months.
- (6) NTMWD water demand exceeds 95 percent of the amount that can be delivered to customers for three consecutive days.
- (7) NTMWD water demand for all or part of the delivery system equals delivery capacity because delivery capacity is inadequate.
- (8) NTMWD's supply source becomes contaminated.

- (9) NTMWD's water supply system is unable to deliver water due to the failure or damage of major water system components.
- (10) Plano's water demand exceeds 95 percent of the amount that can be delivered to customers for three consecutive days.
- (11) Plano's water demand for all or part of the delivery system equals delivery capacity because delivery capacity is inadequate.
- (12) Plano's supply source becomes contaminated.
- (13) Plano's water supply system is unable to deliver water due to the failure or damage of major water system components.
- (14) Other criteria as determined by the City of Plano.

(b) Stage 2 may terminate when NTMWD terminates its Stage 2 condition or when the circumstances that caused the initiation of Stage 2 no longer prevail.

**Sec. 21-59.4 Goals for Use Reduction and Actions Available Under Stage 2**

(a) The goal for water use reduction under Stage 2 is a **five (5) percent reduction** in the amount of water produced by NTMWD. If circumstances warrant or if required by NTMWD, the City Manager or official designee can set a goal for greater water use reduction.

(b) The City Manager or official designee may order the implementation of any of the actions listed below, as deemed necessary.

- (1) Continue or initiate any actions available under Stage 1.
- (2) Notify wholesale customers of actions being taken and request them to implement similar procedures.
- (3) Initiate engineering studies to evaluate alternatives should conditions worsen.
- (4) Further accelerate public education efforts on ways to reduce water use.
- (5) Further reduce non-essential city government water use. (Examples include street cleaning, vehicle washing, operation of ornamental fountains, etc.)

- (6) Encourage the public to wait until the current drought or emergency situation has passed before establishing new landscaping.
- (7) Prohibit the use of treated water to fill or refill residential, amenity, and any other natural or manmade ponds. A pond is considered to be a still body of water with a surface area of five hundred (500) square feet or more.

(c) The following measures impose mandatory requirements on customers. **The City of Plano must notify TCEQ and NTMWD within five (5) business days if these measures are implemented.**

- (1) Limit landscape watering with sprinklers or irrigation systems to no more than two (2) days per week. Exceptions are as follows:
  - (i) The exemption for new sodded grass areas shall not exceed thirty (30) consecutive days from the Certificate of Occupancy date, Temporary Certificate of Occupancy date, or Certificate of Completion date for new home or building construction and shall not exceed forty-five (45) consecutive days from the time of placement of newly seeded, hydro seeded, hydro mulched, or sprigged areas in open space, common areas, or right-of-ways. This exemption shall also apply to turf renovation at athletic fields and high use areas. This exemption does not waive the requirement for compliance with other water use restrictions in the Plan. Should an exemption need to extend past these time periods, the property owner must request a variance under Sec. 21-60.2.
  - (ii) Locations using on-site well water or properly permitted creek withdrawals.
  - (iii) Registered and properly functioning central controlled irrigation system and low flow irrigation systems. Government agencies watering athletic fields, high use areas, or any other public grounds that are heavily used by the public during evening or morning hours are exempt from this watering schedule; however, public irrigation systems will be programmed to meet overall water use reduction goals of the stage. Running government irrigation systems for maintenance, testing, and calibration purposes at any time is also exempt; provided there is a maintenance technician on-site while the system is running.
- (2) Landscape watering shall comply with the following mandatory watering schedule. Watering shall take place on the days indicated based upon the location of the service address as indicated on the Watering Zone Map attached hereto as "Exhibit A."

Zone	Morning Watering Time 2:00 AM to 9:59 AM	Evening Watering Time 6:01 PM to 10:00 PM
1	Monday	Thursday
2	Friday	Tuesday
3	Saturday	Wednesday
4	Thursday	Monday
5	Tuesday	Friday
6	Wednesday	Saturday

**Note:** Landscape watering will be enforced as follows:

**2:00 a.m. to 9:59 a.m. on assigned day watering is allowed;**  
**10:00 a.m. to 5:59 p.m. – watering is not allowed;**  
**6:00 p.m. to 9:59 p.m. on assigned day watering is allowed;**  
**10:00 p.m. to 1:59 a.m. – watering is not allowed.**

**Except as otherwise provided herein, landscape watering is prohibited on Sunday.**

- (3) Prohibit planting of cool season grasses (such as rye grass or other similar grasses) that intensify cool season water requirements.

**Sec. 21-59.5 Initiation and Termination Conditions for Stage 3**

(a) The NTMWD has initiated Stage 3, which may be initiated due to one or more of the following:

- (1) The NTMWD Executive Director, with the concurrence of the NTMWD Board of Directors, finds that conditions warrant the declaration of Stage 3.
- (2) Water demand is projected to approach or exceed the limit of the permitted supply.
- (3) The storage in Lavon Lake is less than forty-five (45) percent of the total conservation pool capacity.
- (4) NTMWD’s storage in Jim Chapman Lake is less than forty-five (45) percent of NTMWD’s total conservation pool capacity.
- (5) The Sabine River Authority has indicated that its Upper Basin water supplies used by NTMWD (Lake Tawakoni and/or Lake Fork) are in a Moderate drought. (Measures required by SRA under a

Moderate drought designation are similar to those under NTMWD's Stage 3).

- (6) The supply from Lake Texoma, the East Fork Raw Water Supply Project, or some other NTMWD source has become limited in availability.
- (7) NTMWD water demand exceeds ninety-eight (98) percent of the amount that can be delivered to customers for three (3) consecutive days.
- (8) NTMWD water demand for all or part of the delivery system exceeds delivery capacity because delivery capacity is inadequate.
- (9) NTMWD's supply source becomes contaminated.
- (10) NTMWD's water supply system is unable to deliver water due to the failure or damage of major water system components.
- (11) Plano's water demand exceeds ninety-eight (98) percent of the amount that can be delivered to customers for three (3) consecutive days.
- (12) Plano's water demand for all or part of the delivery system exceeds delivery capacity because delivery capacity is inadequate.
- (13) Plano's supply source becomes contaminated.
- (14) Plano's water supply system is unable to deliver water due to the failure or damage of major water system components.
- (15) Other criteria as determined by the City of Plano.

(b) Stage 3 may terminate when NTMWD terminates its Stage 3 condition or when the circumstances that caused the initiation of Stage 3 no longer prevail.

#### **Sec. 21-59.6 Goals for Use Reduction and Actions Available Under Stage 3**

(a) The goal for water use reduction under Stage 3 is a **ten (10) percent reduction** in the amount of water obtained from NTMWD. If circumstances warrant or if required by NTMWD, the City Manager or official designee can set a goal for a greater water use reduction.

(b) The City Manager or official designee must implement any action(s) required by NTMWD. In addition, the City Manager or official designee may order the implementation of any of the actions listed below, as deemed necessary.

- (1) Continue or initiate any actions available under Stages 1 and 2.
- (2) Notify wholesale customers of actions being taken and request them to implement similar procedures.
- (3) Implement viable alternative water supply strategies.

(c) The following measures impose mandatory requirements on customers. **The City of Plano must notify TCEQ and NTMWD within five (5) business days if these measures are implemented.**

- (1) Initiate mandatory water use restrictions as follows:
  - (i) Prohibit hosing of paved areas, buildings, or windows., (Pressure washing of impervious surfaces is allowed) except for outdoor public restrooms, pavilions and shelters, where public health, safety, and welfare may be compromised by unsanitary conditions if the facilities cannot be cleaned.
  - (ii) Prohibit operation of all ornamental fountains or other amenity impoundments to the extent they use treated water.
  - (iii) Prohibit washing or rinsing of vehicles by hose except with a hose end cutoff nozzle.
- (2) Limit landscape watering with sprinklers or irrigation systems at each service address to **once every seven (7) days**. Landscape watering shall comply with the following mandatory watering schedule. Watering shall take place on the day indicated based upon the location of the service address as indicated on the Watering Zone Map attached hereto as "Exhibit B."

Zone	Collection Day
1	Monday
2	Tuesday
3	Wednesday
4	Thursday
5	Friday
6	Saturday

All customers, residential and commercial, will be allowed to water as delineated by zones. Exceptions are as follows:

- (i) Foundations, new landscaping, new plantings (first year) of shrubs and trees may be watered within a ten (10) foot radius of their trunk for up to two (2) hours on any day by a hand-

- held hose, a soaker hose, or a dedicated zone using a low flow irrigation system.
- (ii) Prohibit watering of golf courses using treated water, except as needed to keep greens and tee boxes alive.
  - (iii) Government agencies watering athletic fields, high use areas, or any other public grounds that are heavily used by the public during evening or morning hours are exempt from this watering schedule; however, public irrigation systems will be programmed to meet overall water use reduction goals of the stage, and comply with watering schedules where feasible. Running government irrigation systems for maintenance, testing, and calibration purposes at any time is also exempt; provided there is a maintenance technician on-site while the system is running.
  - (iv) Locations using other sources of water supply for irrigation may irrigate without restrictions.
  - (v) Low flow irrigation systems may irrigate without restrictions.
- (3) Limit landscape watering with sprinklers or irrigation systems between November 1 and March 31 to once every two weeks. An exception is allowed for landscape associated with new construction as noted in (2)(i) above.
  - (4) Prohibit hydro seeding, hydro mulching, and sprigging.
  - (5) Existing swimming pools may not be drained and refilled (except to replace normal water loss).
  - (6) Consider a rate surcharge as requested by NTMWD.
  - (7) Initiate a rate surcharge for all water use over a certain level.
  - (8) If NTMWD has imposed a reduction in water available to Member Cities and Customers, impose the same percent reduction on wholesale customers.

**Sec. 21-59.7 Initiation and Termination Conditions for Stage 4**

(a) The NTMWD has initiated Stage 4, which may be initiated due to one or more of the following:

- (1) The NTMWD Executive Director, with the concurrence of the NTMWD Board of Directors, finds that conditions warrant the declaration of Stage 4.

- (2) Water demand is projected to approach or exceed the limit of the permitted supply.
- (3) The storage in Lavon Lake is less than thirty-five (35) percent of the total conservation pool capacity.
- (4) NTMWD's storage in Jim Chapman Lake is less than thirty-five (35) percent of NTMWD's total conservation pool capacity.
- (5) The Sabine River Authority has indicated that its Upper Basin water supplies used by NTMWD (Lake Tawakoni and/or Lake Fork) are in a severe drought or Emergency.
- (6) The supply from Lake Texoma, the East Fork Raw Water Supply Project, or some other NTMWD source has become severely limited in availability.
- (7) NTMWD water demand exceeds the amount that can be delivered to customers.
- (8) NTMWD water demand for all or part of the delivery system seriously exceeds delivery capacity because the delivery capacity is inadequate.
- (9) NTMWD's supply source becomes contaminated.
- (10) NTMWD's water supply system is unable to deliver water due to the failure or damage of major water system components.
- (11) Plano's water demand exceeds the amount that can be delivered to customers.
- (12) Plano's water demand for all or part of the delivery system seriously exceeds delivery capacity because the delivery capacity is inadequate.
- (13) Plano's supply source becomes contaminated.
- (14) Plano's water supply system is unable to deliver water due to the failure or damage of major water system components.
- (15) Plano is unable to recover water storage of one hundred (100) percent in all storage facilities within a twenty-four (24) hour period.
- (16) Plano's individual plan may be implemented if other criteria dictate.

(b) Stage 4 may terminate when NTMWD terminates its Stage 4 condition or when the circumstances that caused the initiation of Stage 4 no longer prevail.

**Sec. 21-59.8 Goals for Use Reduction and Actions Available Under Stage 4**

(a) The goal for water use reduction under Stage 4 is a **reduction of whatever amount is necessary** in the amount of water obtained from NTMWD. If circumstances warrant or if required by NTMWD, the City Manager or official designee can set a goal for a greater water use reduction.

(b) The City Manager or official designee must implement any action(s) required by NTMWD. In addition, the City Manager or official designee may order the implementation of any of the actions listed below, as deemed necessary.

- (1) Continue or initiate any actions available under Stages 1, 2, and 3.
- (2) Notify wholesale customers of actions being taken and require them to implement similar procedures.
- (3) Implement viable alternative water supply strategies.

(c) The following measures impose mandatory requirements on customers. **The City of Plano must notify TCEQ and NTMWD within five (5) business days if these measures are implemented.**

- (1) Prohibit the irrigation of new landscaping using treated water.
- (2) Prohibit washing of vehicles except as necessary for health, sanitation, or safety reasons.
- (3) Prohibit commercial and residential landscape watering, except that foundations and trees (within a ten foot radius of their trunk) may be watered for two (2) hours on any day with a hand-held hose, a soaker hose, or a dedicated zone using a low flow irrigation system. Central controlled irrigation systems and low flow irrigation systems are **not** exempt from this requirement. Water may not be trucked or otherwise transported into the City for irrigation purposes.
- (4) Prohibit the permitting of private pools. Pools already permitted may be completed and filled with water. Existing private and public pools may add water to maintain pool levels but may not be drained and refilled.
- (5) Require all commercial water users to reduce water use by a percentage established by the City Manager or official designee.
- (6) If NTMWD has imposed a reduction in water available to Member Cities and Customers, impose the same percent reduction on wholesale customers.

**Sec. 21-60. Procedures for Granting Variances to the Plan**

(a) The City Manager or official designee may grant temporary variances for existing water uses otherwise prohibited under this drought contingency and water emergency response plan if one or more of the following conditions are met:

- (1) Failure to grant such a variance would cause an emergency condition adversely affecting health, sanitation, or fire safety for the public or the person or entity requesting the variance.
- (2) Compliance with this plan cannot be accomplished due to technical or other limitations.
- (3) Alternative methods that achieve the same level of reduction in water use can be implemented.

(b) Variances shall be granted or denied at the discretion of the City Manager or official designee. All petitions for variances should be in writing and addressed to the Director of Public Works and Engineering. All petitions should include the following information:

- (1) Name and address of the petitioners
- (2) Purpose of water use
- (3) Specific provisions from which relief is requested
- (4) Detailed statement of the adverse effect of the provision from which relief is requested
- (5) Description of the relief requested
- (6) Period of time for which the variance is sought
- (7) Alternative measures that will be taken to reduce water use
- (8) Other pertinent information.

(c) Variances are considered temporary and must be submitted for reconsideration should the Drought and Emergency Response Stage elevate from the stage in which the temporary variance was approved to any higher stage of response.

**Sec. 21-61. Criminal Penalty**

Any person, firm or corporation who violates any term or provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. These criminal penalties may be imposed in addition to any Administrative or Civil Remedy listed herein. Each day a violation continues shall constitute a separate offense. The requirement of a culpable mental state is expressly waived for criminal prosecution purposes.

**Sec. 21-62. Administrative Remedies for Violations**

The following administrative remedies are available to the City in cases of noncompliance with the provisions of this ordinance. These administrative remedies may be assessed in addition to any criminal penalty assessed for a violation of this ordinance. Each day a violation continues shall constitute a separate violation for purposes of assessing administrative remedies. The requirement of a culpable mental state is expressly waived for administrative remedies.

In the event that any person violates the provisions of this ordinance, the Director of Public Works & Engineering or his designee, shall give notice to such person setting forth the evidence of noncompliance with the restrictions outlined in stages 2, 3 and 4.

**(a) In-Ground Irrigation Systems Violations****(1) Notification of Violation**

- (i) Placement of a notice flag on the premises to advise the person his double check device has been turned off and locked; and
- (ii) The City will install a locking device on the person's double check valve to the irrigation system; and
- (iii) Notice to be sent by letter delivered by United States Postal Service addressed to the person as recorded in the city's customer and utility billing records notifying that the irrigation system has been turned off and locked. The letter shall advise the person of the assessment of administrative remedies and fees. The letter shall advise the person the procedures for payment of the administrative fees and the procedure for requesting a hearing to contest the assessment of the administrative remedies.

**(2) Remedy**

- (i) The administrative penalty is one hundred fifty dollars (\$150) per occurrence when paid at Customer and Utility Services.

**(b) Violations for Systems Without Double-Check Valves or In-Ground Irrigation Systems****(1) Violation Notification**

- (i) Placement of a notice flag on the premises to advise the person he was in violation of watering restrictions.

- (ii) Notice shall be sent by letter delivered by United States Postal Service addressed to the person as recorded in the city's customer and utility billing records notifying the person of the violation. The letter shall advise the person of the assessment of administrative fees. The letter shall advise the person the procedures for payment of the administrative fees and the procedure for requesting a hearing to contest the assessment of the administrative remedies.

(2) Remedy

- (i) The administrative penalty is one hundred fifty dollars (\$ 150.00) per occurrence when paid at Customer & Utility Services.

(c) Procedures for Paying Administrative Penalties or Requesting a Hearing on the Fees

- (1) Personal appearance by the person listed on the city's Customer & Utility Services billing records is required to re-establish service to the irrigation system. The person's government issued photo identification must be provided at time of payment or upon request for a hearing.
- (2) A person may request a hearing to protest the assessment of any administrative penalty. To request a hearing, the owner must make the request in person to the City of Plano Public Works Department within fifteen (15) business days from the date on the written notice of violation.
- (3) The Public Works Operations Manager or his designee shall conduct the hearing. The Manager shall evaluate all information offered by the petitioner at the hearing. The person making the request for a hearing shall bear the burden of proof to show why, by a preponderance of the evidence, the administrative remedy should not be assessed. The Manager will provide a decision at the time of the hearing or within three (3) business days following the conclusion of the hearing.
- (4) Payment of any penalty assessed at the hearing must be made within seven (7) business days of the decision from the hearing. Any penalty not paid within this time limit shall be added to the person's next water billing cycle;

- (5) A person may appeal the decision from the hearing to the office of the Director of Public Works & Engineering or his designee. The Director or his designee shall hear the appeal;
  - (6) The request for an appeal must be filed in writing with the office of the Director of Public Works & Engineering within three (3) business days from the notice being given by the Manager.
  - (7) The Director or his designee shall render a decision at the time of the appeal or within three (3) business days from the conclusion of the appeal.
  - (8) A person may elect to pay the administrative penalty without requesting a hearing. Any penalty not paid within fifteen (15) business days from the date on the written notice shall be added to the person's next water billing cycle.
  - (9) Unpaid penalties related to the Drought Contingency Plan can result in the termination of the domestic water services in accordance with City of Plano Code Chapter 21, Article IV, Service Charges Generally, Section 21-131(d) and the established policies and procedures of the Customer and Utility Services Department.
- (d) Re-establishment of service to double checks that have been locked-off.
- (1) The administrative penalty is to be paid at City of Plano Customer & Utility Services. The locking device will be removed within three (3) working days after notice of payment is received from Customer & Utility Services.
  - (2) Request for same day service to unlock double check will require an additional fee of forty dollars (\$40) to be paid in advance at Customer & Utility Services.
- (e) It shall be unlawful for a person to remove through the use of any means or otherwise cause damage to a lock that has been placed on a backflow prevention device by the director or his designee pursuant to this section.
- (f) *Administrative remedy for customers outside city.* The Director of Public Works & Engineering shall advise wholesale water customers outside the city limits receiving water service from the city of actions taken under the plan by telephone and/or by letter. Noncompliance with any requirement in any stage may result in termination of service and removal of meter. Prior to such termination, the wholesale water customer shall be given notice of the city's intent to terminate service and shall have five (5)

business days from the mailing of such notice to appeal the decision to the Director. Notice shall be sufficient if sent by certified mail to the last known address of the customer. If service is terminated, customer shall be liable for all costs of reinstallation. Termination of service to a wholesale water customer under this provision is subject also to the terms of any written contract between the city and the customer.”

**Section III.** All wholesale water contracts entered into or renewed after adoption of this ordinance, including contract extensions, shall include a provision that requires all wholesale water customers of the City to comply with the provisions of this ordinance.

**Section IV.** This plan shall be coordinated with the Region C Water Planning Group and with North Texas Municipal Water District, as required by TCEQ, to insure consistency with the appropriate approved regional water plan.

**Section V.** All provisions of the ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed upon the effective date of this Ordinance, and all other provisions of the ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section VI.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

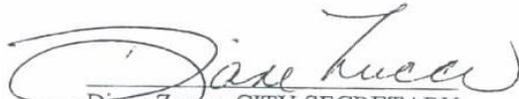
**Section VII.** The repeal of any ordinance or part of any ordinance effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as affecting any rights of the municipality under any section or provision of any ordinance at the time of passage this Ordinance.

**Section VIII.** This Ordinance shall become effective from and after its passage and publication as required by law.

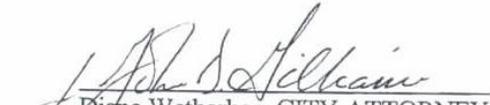
DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, on this the 26th day of October, 2009.

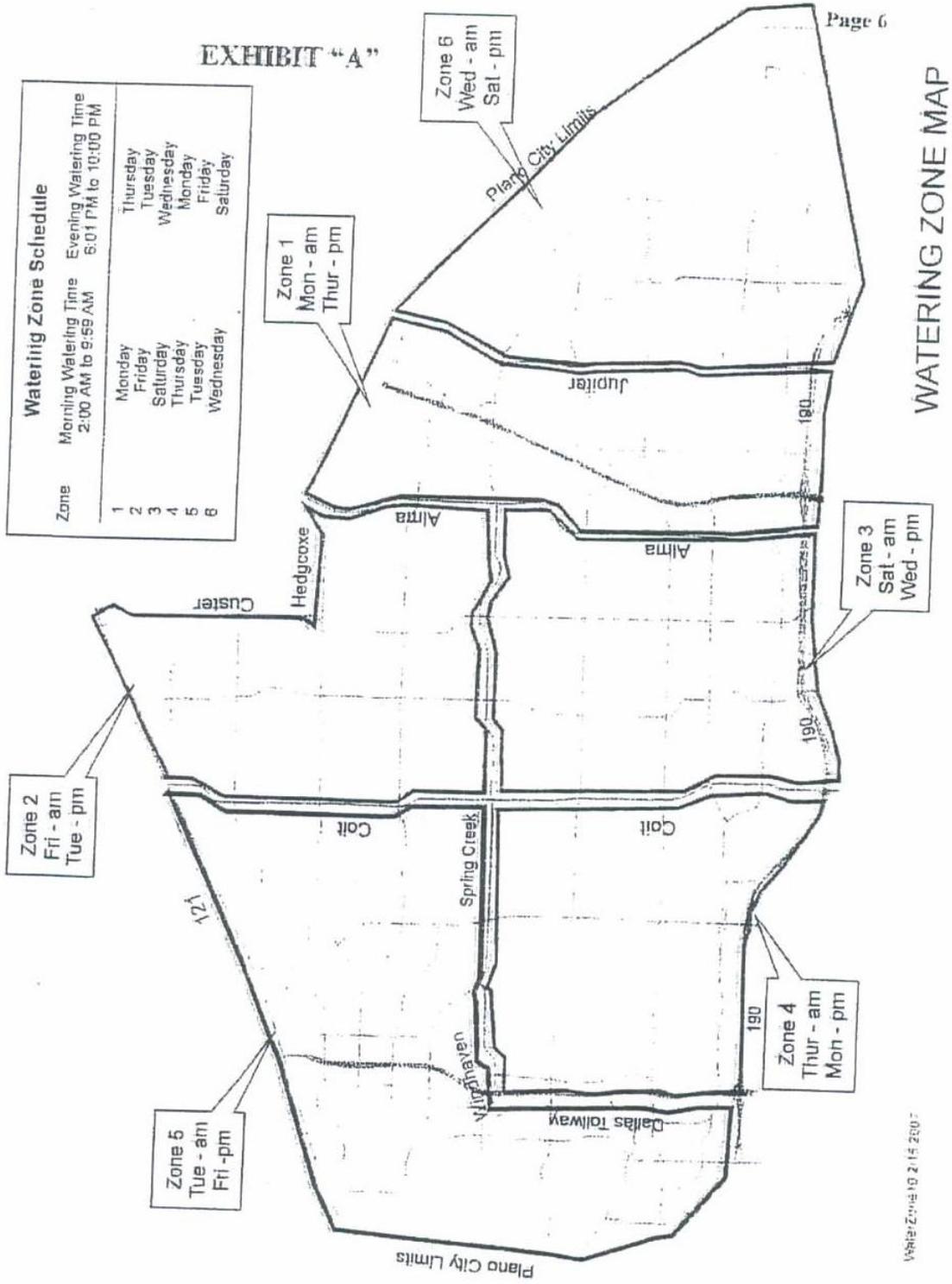
  
Phil Dyer, MAYOR

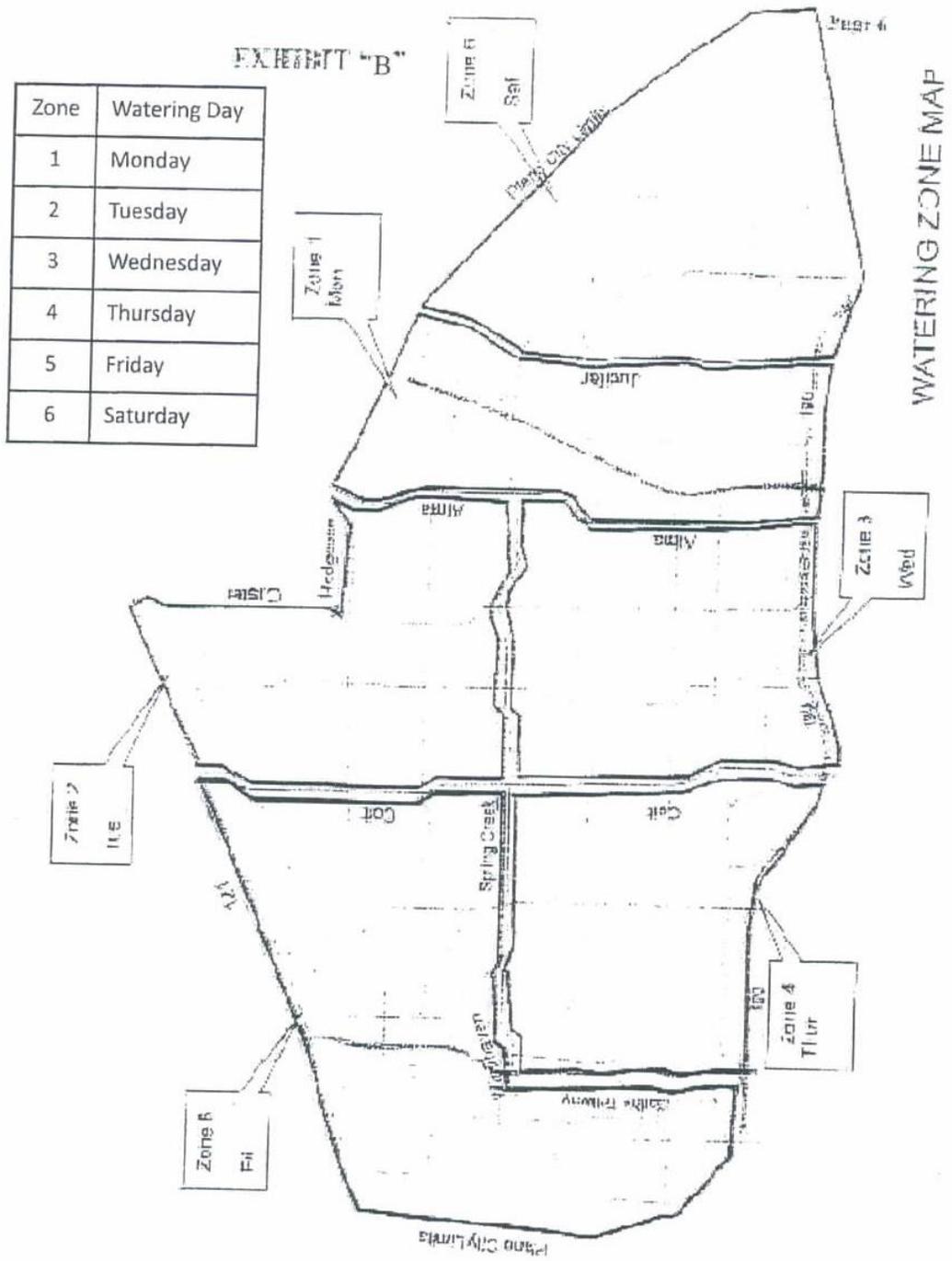
ATTESTED TO:

  
Diane Zuoco, CITY SECRETARY

APPROVED AS TO FORM:

  
Diane Wetherbee, CITY ATTORNEY





**Appendix L**  
**PLUMBING CODE ORDINANCE**  
**Ordinance No. 2008-12-4**

ORDINANCE NO. 2008-12-4

AN ORDINANCE OF THE CITY OF PLANO AMENDING CHAPTER SIX, BUILDING AND BUILDING REGULATIONS, WITH THE ADDITION OF ARTICLE XIII, IRRIGATION SYSTEMS, TO ESTABLISH THE MINIMUM STANDARDS FOR INSTALLATION OF IRRIGATION SYSTEMS WITHIN THE CITY LIMITS OF THE CITY; AND PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A PENALTY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Plano has determined that water conservation and environmental protection are important issues and concerns affecting the city; and,

WHEREAS, properly-installed irrigation systems will conserve water, help avoid wasteful use, and improve the overall quality of life for the citizens of Plano; and

WHEREAS, during the 2007 legislative session, the Texas Legislature adopted House Bill 1656; and

WHEREAS, House Bill 1656 amended Chapter 401 of the Texas Local Government Code to require a city with a population of over 20,000 or more to regulate the installation of irrigation systems within the corporate limits of the city and

WHEREAS, the provisions herein are necessary to promote and protect the health, safety, and welfare of the public by creating an urban environment that is protective of the city's water supply and provides an enhanced quality of life for the citizens of the City of Plano.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS:**

**Section I. Article XIII, Irrigation Systems of Chapter Six of the Code of Ordinances is hereby adopted and shall read in its entirety as follows:**

**ARTICLE XIII IRRIGATION SYSTEMS**

**Sec. 6-561 Definitions**

The following words and terms have the following meanings, unless the context clearly indicates otherwise.

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- (1) **Air gap separation (AG)**--A complete physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel.
- (2) **Atmospheric Vacuum Breaker (AVB)**—An assembly containing a float check, a check seat, and an air inlet port. Atmospheric Vacuum Breakers shall not be subjected to back pressure situations.
- (3) **Auxiliary Water Supply**- Any water supply other than the City of Plano's approved public water supply, including water from another public water supply or from a natural source including, but not limited to, wells, cisterns, springs, rivers, streams, used waters, or industrial fluids.
- (4) **Backflow prevention**--The mechanical prevention of reverse flow, or back siphonage, of nonpotable water from an irrigation system into the potable water source.
- (5) **Backflow prevention assembly**—An assembly which, when properly installed between the City water supply system and the terminus or point of ultimate use will prevent backflow. Examples of such include, but are not limited to, reduced pressure backflow assemblies, double check valve assemblies, pressure vacuum breakers, and air gap separation.
- (6) **City**- The City of Plano, Texas and its duly authorized representatives.
- (7) **Commission** – The Commission on Environmental Quality.
- (8) **Completion of irrigation system installation**--When the landscape irrigation system has been installed, all minimum standards met, all tests performed, and the irrigator is satisfied that the system is operating correctly.
- (9) **Consulting**--The act of providing advice, guidance, review or recommendations related to landscape irrigation systems.
- (10) **Cross-connection**—A physical connection between a public water system and either another supply of unknown or questionable quality, any source which may contain contaminating or polluting substances, or any source of water treated to a lesser degree than approved or auxiliary water supply source in the treatment process.
- (11) **Design**--The act of determining the various elements of a landscape irrigation system that will include, but not be limited to, elements such as collecting site specific information, defining the scope of the project, defining plant watering needs, selecting and laying out emission devices, locating system components, conducting hydraulics calculations, identifying any local

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regulatory requirements, or scheduling irrigation work at a site. Completion of the various components will result in an irrigation plan.

(12) **Design pressure**--The pressure that is required for an emission device to operate properly. Design pressure is calculated by adding the operating pressure necessary at an emission device to the total of all pressure losses accumulated from an emission device to the water source.

(13) **Double Check Valve (DC)**—An assembly composed of two independently acting, approved check valves, including tightly closing resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient-seated test cocks.

(14) **Emission device**--Any device that is contained within an irrigation system and that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads, and drip irrigation emitters.

(15) **Employed**--Engaged or hired to provide consulting services or perform any activity relating to the sale, design, installation, maintenance, alteration, repair, or service to irrigation systems. A person is employed if that person is in an employer-employee relationship as defined by Internal Revenue Code, 26 United States Code Service, §3212(d) based on the behavioral control, financial control, and the type of relationship involved in performing employment related tasks.

(16) **Head-to-head spacing**--The spacing of spray or rotary heads equal to the manufacturers published radius of the head.

(17) **Health hazard**—A cross connection, potential cross connection, or other situation involving any substance that could cause death, illness, spread of disease, or has a high probability of causing such effects if introduced into the potable drinking water supply.

(18) **Hydraulics**--The science of dynamic and static water; the mathematical computation of determining pressure losses and pressure requirements of an irrigation system.

(19) **Inspector**--A licensed plumbing inspector, water district operator, other governmental entity, or irrigation inspector who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor.

(20) **Installer**--A person who actually connects an irrigation system to a private or public raw or potable water supply system or any water supply, who is licensed according to Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations).

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- (21) **Irrigation inspector**--A person who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor and is required to be licensed under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations).
- (22) **Irrigation plan**--A scaled drawing of a landscape irrigation system which lists required information, the scope of the project, and represents the changes made in the installation of the irrigation system.
- (23) **Irrigation services**--Selling, designing, installing, maintaining, altering, repairing, servicing, permitting, providing consulting services regarding, or connecting an irrigation system to a water supply.
- (24) **Irrigation system**--An assembly of component parts that is permanently installed for the controlled distribution and conservation of water to irrigate any type of landscape vegetation in any location, and/or to reduce dust or control erosion. This term does not include a system that is used on or by an agricultural operation as defined by Texas Agricultural Code, §251.002.
- (25) **Irrigation technician**--A person who works under the supervision of a licensed irrigator to install, maintain, alter, repair, service or supervise installation of an irrigation system, including the connection of such system in or to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations).
- (26) **Irrigation zone**--A subdivision of an irrigation system with a matched precipitation rate based on plant material type (such as turf, shrubs, or trees), microclimate factors (such as sun/shade ratio), topographic features (such as slope) and soil conditions (such as sand, loam, clay, or combination) or for hydrological control.
- (27) **Irrigator**--A person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.
- (28) **Irrigator-in-Charge**--The irrigator responsible for all irrigation work performed by an exempt business owner, including, but not limited to obtaining permits, developing design plans, supervising the work of other irrigators or irrigation technicians, and installing, selling, maintaining, altering, repairing, or servicing a landscape irrigation system.

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(29) **Landscape irrigation**--The science of applying the necessary amount of water to promote or sustain healthy growth of plant material or turf.

(30) **License**--An occupational license that is issued by the commission under Title 30, Texas Administrative Code, Chapter 30 to an individual that authorizes the individual to engage in an activity that is covered by Title 30, Texas Administrative Code, Chapter 30.

(31) **Mainline**--A pipe within an irrigation system that delivers water from the water source to the individual zone valves.

(32) **Maintenance checklist**--A document made available to the irrigation system's owner or owner's representative that contains information regarding the operation and maintenance of the irrigation system, including, but not limited to: checking and repairing the irrigation system, setting the automatic controller, checking the rain or moisture sensor, cleaning filters, pruning grass and plants away from irrigation emitters, using and operating the irrigation system, the precipitation rates of each irrigation zone within the system, any water conservation measures currently in effect from the water purveyor, the name of the water purveyor, a suggested seasonal or monthly watering schedule based on current evapotranspiration data for the geographic region, and the minimum water requirements for the plant material in each zone based on the soil type and plant material where the system is installed.

(33) **Major maintenance, alteration, repair, or service**--Any activity that involves opening to the atmosphere the irrigation main line at any point prior to the discharge side of any irrigation zone control valve. This includes, but is not limited to, repairing or connecting into a main supply pipe, replacing a zone control valve, or repairing a zone control valve in a manner that opens the system to the atmosphere.

(34) **Master valve**--A remote control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline.

(35) **Matched precipitation rate**--The condition in which all sprinkler heads within an irrigation zone apply water at the same rate.

(36) **New installation**--An irrigation system installed at a location where one did not previously exist.

(37) **Non-health hazard**--A cross-connection or potential cross connection involving any substance that generally would not be a health hazard but would constitute a nuisance, or be aesthetically objectionable, if introduced into the potable water supply.

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- (38) **Non-potable water**—A water supply, which has not been approved, for human consumption by the commission.
- (39) **Pass-through contract**--A written contract between a contractor or builder and a licensed irrigator or exempt business owner to perform part or all of the irrigation services relating to an irrigation system.
- (40) **Potable water**—Any public water supply which has been investigated and approved by the commission as satisfactory for drinking, culinary and domestic purposes.
- (41) **Pressure Vacuum Breaker**—An assembly which contains an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve, with properly located resilient-seated test cocks and tightly closing resilient-seated shutoff valves attached at each end of the assembly. Pressure vacuum breakers shall not be subjected to back pressure situations.
- (42) **Reclaimed water**--Domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation.
- (43) **Records of landscape irrigation activities**—The irrigation plans, contracts, warranty information, invoices, copies of permits, and other documents that relate to the installation, maintenance, alteration, repair, or service of a landscape irrigation system.
- (44) **Reduced Pressure Principle Backflow Prevention Assembly (RP)** – an assembly containing two independently acting approved check vales together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The unit includes properly located resilient-seated test cocks and two tightly-closing resilient seated shutoff valves at each end of the assembly.
- (45) **Static water pressure**--The pressure of water when it is not moving.
- (46) **Supervision**--The on-the-job oversight and direction by a licensed irrigator who is fulfilling his or her professional responsibility to the client and/or employer in compliance with local or state requirements. Also a licensed installer working under the direction of a licensed irrigator or beginning January 1, 2009, an irrigation technician who is working under the direction of a licensed irrigator to install, maintain, alter, repair or service an irrigation system.
- (47) **Water conservation**--The design, installation, service, and operation of an irrigation system in a manner that prevents the waste of water, promotes the most efficient use of water, and

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applies the least amount of water that is required to maintain healthy individual plant material or turf, reduce dust, and control erosion.

(48) **Zone flow**--A measurement, in gallons per minute or gallons per hour, of the actual flow of water through a zone valve, calculated by individually opening each zone valve and obtaining a valid reading after the pressure has stabilized. For design purposes, the zone flow is the total flow of all nozzles in the zone at a specific pressure.

(49) **Zone valve**--An automatic valve that controls a single zone of a landscape irrigation system.

**Sec. 6-562 Valid License Required**

Any person who connects an irrigation system to the water supply within the city must hold a valid irrigation license, as defined by Chapter 30, Title 30 of the Texas Administrative Code and required by Chapter 1903 of the Texas Occupations Code, or a Texas State Plumbing License.

*Exception*

A property owner is not required to be licensed in accordance with Texas Occupations Code, Title 12, §1903.002(c)(1) if he or she is performing irrigation work in a building or on a premises owned or occupied by the person as the person's home. A home or property owner who installs an irrigation system must meet the standards contained in Title 30, Texas Administrative Code, Chapter 344 regarding spacing, water pressure, spraying water over impervious materials, rain or moisture shut-off devices or other technology, backflow and isolation valves. The city may, at any point, adopt more stringent requirements for a home or property owner who installs an irrigation system (see Texas Occupation Code § 1903.002 for other exemptions to the licensing requirement)

**Sec. 6-563 Permit Required**

It shall be unlawful for any person to install or cause to be installed, or to permit any person to install an irrigation system, or to make any alterations, additions or changes to an irrigation system, without first having procured a permit to do so from the building official. Any plan approved for a permit must be in compliance with the requirements of this chapter.

*Exemptions:*

1. *An irrigation system that is an on-site sewage disposal system, as defined by Section 355.002 Health and Safety Code; or*
2. *An irrigation system used on or by an agricultural operation as defined by Section 251.002, Agriculture Code; or*

3. *An irrigation system connected to a groundwater well used by the property owner for domestic use.*

**Sec. 6-564 Backflow Prevention Methods and Devices**

(a) Any irrigation system that is connected to the potable water supply must be connected through a backflow prevention method approved by the Texas Commission on Environmental Quality (TCEQ). The backflow prevention device must be approved by the American Society of Sanitary Engineers; or the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California; or any other laboratory that has equivalent capabilities for both the laboratory and field evaluation of backflow prevention assemblies. The backflow prevention device must be installed in accordance with the laboratory approval standards or if the approval does not include specific installation information, the manufacturer's current published recommendations.

(b) If conditions that present a health hazard exist, one of the following methods must be used to prevent backflow:

- (1) An air gap may be used if:
  - (A) there is an unobstructed physical separation; and
  - (B) the distance from the lowest point of the water supply outlet to the flood rim of the fixture or assembly into which the outlet discharges is at least one inch or twice the diameter of the water supply outlet, whichever is greater.
- (2) Reduced pressure principle backflow prevention assemblies may be used if:
  - (A) the assembly is installed with the termination point a minimum of twelve (12) inches above finished grade in a location that will ensure that the assembly will not become submerged; and
  - (B) drainage is provided for any water that may be discharged through the assembly relief valve.
- (3) Pressure vacuum breakers may be used if:
  - (A) no back-pressure condition will occur; and
  - (B) the device is installed at a minimum of 12 inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler.
- (4) Atmospheric vacuum breakers may be used if:
  - (A) no back-pressure will be present;
  - (B) there are no shutoff valves downstream from the atmospheric vacuum breaker;
  - (C) the device is installed at a minimum of six inches above any downstream piping and the highest downstream opening. Pop-up sprinklers are measured from the retracted position from the top of the sprinkler;
  - (D) there is no continuous pressure on the supply side of the atmospheric vacuum breaker for more than 12 hours in any 24-hour period; and
  - (E) a separate atmospheric vacuum breaker is installed on the discharge side of each irrigation control valve, between the valve and all the emission devices that the valve controls.

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- (c) Backflow prevention assemblies used in applications designated as health hazards must be tested upon installation and annually thereafter.
- (d) If there are no conditions that present a health hazard, double check valve backflow prevention assemblies may be used to prevent backflow if the device is tested upon installation and test cocks are used for testing only.
- (e) If a double check valve is installed below ground:
  - (1) test cocks must be plugged, except when the double check valve is being tested;
  - (2) test cock plugs must be threaded, water-tight, and made of non-ferrous material;
  - (3) a y-type strainer is installed on the inlet side of the double check valve;
  - (4) there must be a clearance between any fill material and the bottom of the double check valve to allow space for testing and repair; and
  - (5) there must be space on the side of the double check valve to test and repair the double check valve.
- (f) If an existing irrigation system without a backflow-prevention assembly requires major maintenance, alteration, repair, or service, the system must be connected to the potable water supply through an approved, properly installed backflow prevention method before any major maintenance, alteration, repair, or service is performed.
- (g) The irrigator shall ensure the backflow prevention device is tested prior to being placed into service and the test results provided to the local water purveyor and the irrigation system's owner or owner's representative within ten business days of testing of the backflow prevention assembly.
- (h) The City is not responsible for any pressure loss created by the installation of a backflow assembly.

**Sec 6-565 Specific Conditions and Cross-Connection Control**

- (a) Before any chemical is added to an irrigation system connected to the potable water supply, the irrigation system must be connected through a reduced pressure principle backflow prevention assembly or air gap.
- (b) Connection of any auxiliary water supply to an irrigation system that is connected to the potable water supply can only be done if the irrigation system is connected to the potable water supply through a reduced pressure backflow prevention assembly or an air gap separation.
- (c) Irrigation system components with chemical additives induced by aspiration, injection, or emission system connected to any potable water supply must be connected through a reduced pressure principle backflow assembly.
- (d) If an irrigation system is designed or installed on a property that is served by an on-site sewage facility, as defined in Chapter 285 of Title 30, Texas Administrative Code, then:

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- (1) all irrigation piping and valves must meet the separation distances from the On-Site Sewage Facilities system as required for a private water line in Texas Administrative Code, Title 30, Section 285.91(10);
- (2) any connections using a private or public potable water source that is not the city's potable water system must be connected to the water source through a reduced pressure principle backflow prevention assembly as defined in Texas Administrative Code, Title 30, Section 344.50; and
- (3) any water from the irrigation system that is applied to the surface of the area utilized by the On-Site Sewage Facility system must be controlled on a separate irrigation zone or zones so as to allow complete control of any irrigation to that area so that there will not be excess water that would prevent the On-Site Sewage Facilities system from operating effectively.

**(e) Quick couplers or hose connections of any type installed within the irrigation system shall require the proper installation of a reduced pressure backflow prevention assembly. The assembly shall be tested upon installation and annually thereafter.**

**Sec. 6-566 Water Conservation**

All irrigation systems shall be designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation as defined in the Definitions section of this ordinance.

**Sec. 6-567 Irrigation Plan Design: Minimum Standards**

(a) An irrigator shall prepare an irrigation plan for each site where a new irrigation system will be installed. A paper or electronic copy of the irrigation plan must be on the job site at all times during the installation of the irrigation system. A drawing showing the actual installation of the system is due to each irrigation system owner after all new irrigation system installations. During the installation of the irrigation system, variances from the original plan may be authorized by the licensed irrigator if the variance from the plan does not:

- (1) diminish the operational integrity of the irrigation system;
- (2) violate any requirements of this ordinance; and
- (3) go unnoted in red on the irrigation plan.

(b) The irrigation plan must include complete coverage of the area to be irrigated. If a system does not provide complete coverage of the area to be irrigated, it must be noted on the irrigation plan.

(c) All irrigation plans used for construction must be drawn to scale. The plan must include, at a minimum, the following information:

- (1) the irrigator's seal, signature, and date of signing;

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- (2) all major physical features and the boundaries of the areas to be watered;
- (3) a North arrow;
- (4) a legend;
- (5) the zone flow measurement for each zone;
- (6) location and type of each:
  - (A) controller;
  - (B) sensor (for example, but not limited to, rain, moisture, wind, flow, or freeze);
- (7) location, type, and size of each:
  - (A) water source, such as, but not limited to a water meter and point(s) of connection;
  - (B) backflow prevention assembly;
  - (C) water emission device, including, but not limited to, spray heads, rotary sprinkler heads, quick-couplers, bubblers, drip, or micro-sprays;
  - (D) valve, including but not limited to, zone valves, master valves, and isolation valves;
  - (E) pressure regulation component; and
  - (F) main line and lateral piping.
- (8) the scale used; and
- (9) the design pressure.

**Sec. 6-568 Design and Installation: Minimum Requirements**

- (a) No irrigation design or installation shall require the use of any component, including the water meter, in a way which exceeds the manufacturer's published performance limitations for the component.
- (b) Spacing.
  - (1) The maximum spacing between emission devices must not exceed the manufacturer's published radius or spacing of the device(s). The radius or spacing is determined by referring to the manufacturer's published specifications for a specific emission device at a specific operating pressure.
  - (2) New irrigation systems shall not utilize above-ground spray emission devices in landscapes that are less than 48 inches not including the impervious surfaces in either length or width and which contain impervious pedestrian or vehicular traffic surfaces along two or more perimeters. If pop-up sprays or rotary sprinkler heads are used in a new irrigation system, the sprinkler heads must direct flow away from any adjacent surface and shall not be installed closer than four inches from a hardscape, such as, but not limited to, a building foundation, fence, concrete, asphalt, pavers, or stones set with mortar.
  - (3) Narrow paved walkways, jogging paths, golf cart paths or other small areas located in cemeteries, parks, golf courses or other public areas may be exempted from this requirement if the runoff drains into a landscaped area.

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(c) Water pressure. Emission devices must be installed to operate at the minimum and not above the maximum sprinkler head pressure as published by the manufacturer for the nozzle and head spacing that is used. Methods to achieve the water pressure requirements include, but are not limited to, flow control valves, a pressure regulator, or pressure compensating spray heads.

(d) Piping. Piping in irrigation systems must be designed and installed so that the flow of water in the pipe will not exceed a velocity of five feet per second for polyvinyl chloride (PVC) pipe.

(e) Irrigation Zones. Irrigation systems shall have separate zones based on plant material type, microclimate factors, topographic features, soil conditions, and hydrological requirements.

(f) Matched precipitation rate. Zones must be designed and installed so that all of the emission devices in that zone irrigate at the same precipitation rate.

(g) Irrigation systems shall not spray water over surfaces made of concrete, asphalt, brick, wood, stones set with mortar, or any other impervious material, such as, but not limited to, walls, fences, sidewalks, streets, etc.

(h) Master valve. When provided, a master valve shall be installed on the discharge side of the backflow prevention device on all new installations.

(i) PVC pipe primer solvent. All new irrigation systems that are installed using PVC pipe and fittings shall be primed with a colored primer prior to applying the PVC cement in accordance with the International Plumbing Code (Section 605).

(j) Rain or moisture shut-off devices or other technology. All new automatically controlled irrigation systems must include sensors or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall. Rain or moisture shut-off technology must be installed according to the manufacturer's published recommendations. Repairs to existing automatic irrigation systems that require replacement of an existing controller must include a sensor or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall

(k) Isolation valve. All new irrigation systems must include an isolation valve between the water meter and the backflow prevention assembly.

(l) Depth coverage of piping. Piping in all irrigation systems must be installed according to the manufacturer's published specifications for depth coverage of piping.

(1) If the manufacturer has not published specifications for depth coverage of piping, the piping must be installed to provide minimum depth coverage of six inches of select backfill,

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between the top of the pipe and the natural grade of the topsoil. All portions of the irrigation system that fail to meet this standard must be noted on the irrigation plan. If the area being irrigated has rock at a depth of six inches or less, select backfill may be mounded over the pipe. Mounding must be noted on the irrigation plan and discussed with the irrigation system owner or owner's representative to address any safety issues.

(2) If a utility, man-made structure or roots create an unavoidable obstacle, which makes the six-inch depth coverage requirement impractical, the piping shall be installed to provide a minimum of two inches of select backfill between the top of the pipe and the natural grade of the topsoil.

(3) All trenches and holes created during installation of an irrigation system must be backfilled and compacted to the original grade.

(m) Wiring irrigation systems.

(1) Underground electrical wiring used to connect an automatic controller to any electrical component of the irrigation system must be listed by Underwriters Laboratories as acceptable for burial underground.

(2) Electrical wiring that connects any electrical components of an irrigation system must be sized according to the manufacturer's recommendation.

(3) Electrical wire splices which may be exposed to moisture must be waterproof as certified by the wire splice manufacturer.

(4) Underground electrical wiring that connects an automatic controller to any electrical component of the irrigation system must be buried with a minimum of six inches of select backfill.

(n) Water contained within the piping of an irrigation system is deemed to be non-potable. No drinking or domestic water usage, such as, but not limited to, filling swimming pools or decorative fountains, shall be connected to an irrigation system. If a hose bib (an outdoor water faucet that has hose threads on the spout) is connected to an irrigation system for the purpose of providing supplemental water to an area, the hose bib must be installed using a quick coupler key on a quick coupler installed in a covered purple valve box and the hose bib and any hoses connected to the bib must be labeled "non potable, not safe for drinking." An isolation valve must be installed upstream of a quick coupler connecting a hose bib to an irrigation system.

(o) Beginning January 1, 2010, either a licensed irrigator or a licensed irrigation technician shall be on-site at all times while the landscape irrigation system is being installed. When an irrigator is not onsite, the irrigator shall be responsible for ensuring that a licensed irrigation technician is on-site to supervise the installation of the irrigation system.

**Sec. 6-569 Completion of Irrigation System Installation**

Upon completion of the irrigation system, the irrigator or irrigation technician who provided supervision for the on-site installation shall be required to complete four items:

- (1) A final "walk through" with the irrigation system's owner or the owner's representative to explain the operation of the system;
- (2) The maintenance checklist on which the irrigator or irrigation technician shall obtain the signature of the irrigation system's owner or owner's representative and shall sign, date, and seal the checklist. If the irrigation system's owner or owner's representative is unwilling or unable to sign the maintenance checklist, the irrigator shall note the time and date of the refusal on the irrigation system's owner or owner's representative's signature line. The irrigation system owner or owner's representative will be given the original maintenance checklist and a duplicate copy of the maintenance checklist shall be maintained by the irrigator. The items on the maintenance checklist shall include but are not limited to:
  - (A) the manufacturer's manual for the automatic controller, if the system is automatic;
  - (B) a seasonal (spring, summer, fall, winter) watering schedule based on either current/real time evapotranspiration or monthly historical reference evapotranspiration (historical ET) data, monthly effective rainfall estimates, plant landscape coefficient factors, and site factors;
  - (C) a list of components, such as the nozzle, or pump filters, and other such components; that require maintenance and the recommended frequency for the service; and
  - (D) the statement, "This irrigation system has been installed in accordance with all applicable state and local laws, ordinances, rules, regulations or orders. I have tested the system and determined that it has been installed according to the Irrigation Plan and is properly adjusted for the most efficient application of water at this time."
- (3) A permanent sticker which contains the irrigator's name, license number, company name, telephone number and the dates of the warranty period shall be affixed to each automatic controller installed by the irrigator or irrigation technician. If the irrigation system is manual, the sticker shall be affixed to the original maintenance checklist. The information contained on the sticker must be printed with waterproof ink and include:
- (4) The irrigation plan indicating the actual installation of the system must be provided to the irrigation system's owner or owner representative.

**Sec. 6-570 Maintenance, Alteration, Repair, or Service of Irrigation Systems**

(a) The licensed irrigator is responsible for all work that the irrigator performed during the maintenance, alteration, repair, or service of an irrigation system during the warranty period. The irrigator or business owner is not responsible for the professional negligence of any other irrigator who subsequently conducts any irrigation service on the same irrigation system.

(b) All trenches and holes created during the maintenance, alteration, repair, or service of an irrigation system must be returned to the original grade with compacted select backfill.

(c) Colored PVC pipe primer solvent must be used on all pipes and fittings used in the maintenance, alteration, repair, or service of an irrigation system in accordance with the International Plumbing Code (Section 605).

(d) When maintenance, alteration, repair or service of an irrigation system involves excavation work at the water meter or backflow prevention device, an isolation valve shall be installed, if an isolation valve is not present.

***Sec 6-571 Reclaimed Water***

*Reclaimed water may be utilized in landscape irrigation systems if:*

- (1) there is no direct contact with edible crops, unless the crop is pasteurized before consumption;*
- (2) the irrigation system does not spray water across property lines that do not belong to the irrigation system's owner;*
- (3) the irrigation system is installed using purple components;*
- (4) the domestic potable water line is connected using an air gap or a reduced pressure principle backflow prevention device, in accordance with §290.47(i) of this title (relating to Appendices);*
- (5) a minimum of an eight inch by eight inch sign, in English and Spanish, is prominently posted on/in the area that is being irrigated, that reads, "RECLAIMED WATER – DO NOT DRINK" and "AGUA DE RECUPERACIÓN – NO BEBER"; and*
- (6) backflow prevention on the reclaimed water supply line shall be in accordance with the regulations of the city's water provider.*

**Sec. 6-572 Items not covered by this ordinance**

Any item not covered by this ordinance and required by law shall be governed by the Texas Occupations Code, the Texas Water Code, Title 30 of the Texas Administrative Code, and any other applicable state statute or TCEQ rule.

**Sec. 6-573 Fees**

Prior to issuance of a permit the applicant shall pay a permit fee in accordance with the City of Plano Building Inspections Fee Schedule as adopted by the city council, as it exists or may be amended.

**Sec. 6-574 Enforcement**

(a) The city shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person, firm, corporation or agent who shall violate a provision of this code, or fails to comply therewith, or with any of the requirements thereof, is subject to suit for injunctive relief as well as prosecution for criminal violations.

(b) Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinance for each offense. Every day a violation continues shall constitute a separate offense. An offense under this chapter is a Class C misdemeanor.

(c) Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to the following:

- (1) Injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the ordinance; and
- (2) Other available relief.

**Section II. All provisions of the Code of Ordinances of the City of Plano in conflict with the provision of this Ordinance are hereby repealed, and all other provision of the Code of Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.**

**Section III. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.**

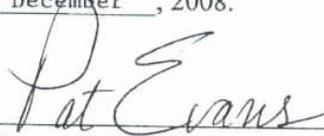
**Section IV. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any Ordinances at the time of passage of this Ordinance.**

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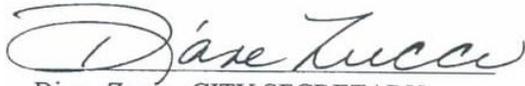
**Section V. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinance for each offense. Every day a violation continues shall constitute a separate offense.**

**Section VI. This Ordinance shall become effective from and after its passage and publication as required by law.**

**DULY PASSED AND APPROVED** on this, the 8<sup>th</sup> day of December, 2008.

  
\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

  
\_\_\_\_\_  
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

APPENDIX M  
FUGITIVE WATER ORDINANCE  
Ordinance No. 86-6-15

Section V. Exemptions

- A. "Fugitive Water" shall not include:
1. Storm run-off allowed under provisions of City Council <sup>Ordinance 79-4-10</sup> Resolution( ) ~~or( )~~.
  2. Flow resulting from temporary water supply system failures or malfunctions.
  3. Flow resulting from other emergencies.
- B. "Waste" shall not include:
1. Flow resulting from fire fighting or routine inspection of fire hydrants or from training activities.
  2. Water applied to abate spills of flammable or otherwise hazardous materials.
  3. Water applied to prevent or abate health, safety, or accident hazards when alternate methods are not available.
  4. Water which reaches or flows onto adjacent property or public right-of-way when caused by vandalism, wind, or other uncontrollable circumstances or condition.
  5. Flow resulting from a routine inspection or maintenance of the municipal water supply system.
  6. Occasional flow resulting from commercial or individual residential applications such as washing of vehicles, boats, or municipal flushing of streets.
  7. Water used by the Traffic Engineering Division, City of Plano, in the course of installation or maintenance of traffic flow control devices.
  8. Water by contractors or utilities in saw-cutting of pavement, compaction, or other uses required under terms of their contract.

2. Landscape water which leaves a sprinkler system or other application device in such a manner or direction as to spray onto adjacent property or public right-of-way.

3. Washing down of hard surfaces such as parking lots, aprons, pads, driveways or other surfaced areas when water is applied in sufficient quantity to flow from that surface onto adjacent property or the public right-of-way.

D. "Public Right-Of-Way" shall mean paved or unpaved streets, alleys, drainage, or other public easements and lined or unlined drainage channels, which comprise the municipal storm drainage system.

E. "Responsible Party" shall mean the owner, manager, supervisor, or person in charge of the property, facility or operation during the period of time the violation(s) are observed.

Section III. Waste Water Prohibited After the effective date of this ordinance, no person, firm, corporation, or municipal facility or operation shall waste, cause or permit to be wasted any water furnished by the municipal water supply system of the City of Plano.

Section IV. Fugitive Water Flow Prohibited After the effective date of this ordinance, no person, firm, corporation, municipal, or other government facility or operation shall cause or permit the flow of excess or fugitive water onto adjacent property or public right-of-way.

**WATER WASTE ORDINANCE**

**ORDINANCE NO. 86-6-15**

**AN ORDINANCE OF THE CITY OF PLANO, TEXAS, ESTABLISHING A POLICY FOR PROHIBITING WATER WASTE AND EXCESS WATER FLOW; PROVIDING FOR EXEMPTIONS; PROVIDING FOR PENALTIES AND SUSPENSION OF SERVICE; PROVIDING A SEVERABILITY CLAUSE AND EFFECTIVE DATE; AND ESTABLISHING PROCEDURES.**

**WHEREAS**, the City of Plano, Texas has developed a Water Conservation Plan, and

**WHEREAS**, water resources available to the City be put to the maximum beneficial use

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO:**

**Section I. Declaring a Nuisance Condition to Exist.**

The flow of excess landscape water, fugitive water, and water wastage from any water supply, transport, or delivery system installation of facility onto adjacent property or public right-of-way of the City of Plano is hereby declared a nuisance.

**Section II. Definitions** For purposes of this

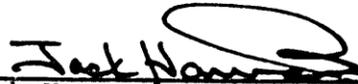
ordinance, the following definitions apply:

- A. "Waste" shall mean the non-beneficial use of water supplied by the municipal water supply system.
- B. "Fugitive Water" shall mean the pumping, flow, release, escape, or leakage of any water from any pipe, valve, faucet, connection, diversion, well, from any water supply, transport, storage disposal or delivery system of a facility onto adjacent property or the public right-of-way.
- C. "Non-beneficial Uses" include but are not restricted to the following:
  - 1. Landscape water applied in such a manner, rate and/or quantity that it regularly overflows the landscaped area being watered and runs onto adjacent property or public right-of-way.

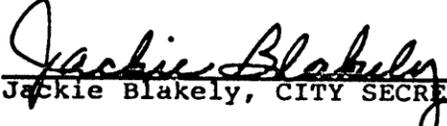
Section VIII. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence or section of this ordinance shall be declared unconstitutional or invalid by any judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this ordinance; and the City Council hereby declares it would have passed the remaining portions even though it had known the affected parts would be held unconstitutional.

Section IX. This ordinance shall become effective immediately from and after its passage and publication as required by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THIS THE 9th DAY OF June, 1986.

  
\_\_\_\_\_  
Jack Harvard, MAYOR

ATTEST:

  
\_\_\_\_\_  
Jackie Blakely, CITY SECRETARY

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Gary F. Chatham, CITY ATTORNEY

Section VI. Administration of the Ordinance. The City Manager, or in his absence the Assistant City Manager, shall be responsible for the enforcement of this ordinance. He shall prescribe policies, rules, or regulations to carry out the intent and purpose of the ordinance.

A. SUSPENSION OF SERVICE. On determination by City Staff that a health or safety hazard exists, and failure by the responsible party to abate the nuisance, municipal water service may be suspended at the discretion of the City Manager.

B. VARIANCES. A variance may be issued by the City Manager provided that all options for abatement through modified water management have been exhausted. The variance may be issued for a period not to exceed one year and shall stipulate both corrective measures and a schedule for completion.

Section VII. Penalty. Any responsible party who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02-08-10		
Department:		City Secretary		
Department Head		Di Zucco		
Agenda Coordinator (include phone #): <b>Di Zucco - X7551</b>				
<b>CAPTION</b>				
A Resolution of the City Council of the City of Plano, Texas, canvassing the election returns of the Special Election of January 30, 2010, for the election of one member of Council Place 3 (District 3) to fill a vacancy until the May 2011 General Election declaring the results; and resolving other matters on the subject.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
<b>FUND(S):</b>				
<b>COMMENTS:</b>				
<b>SUMMARY OF ITEM</b>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	

**A Resolution of the City Council of the City of Plano, Texas, canvassing the election returns of the Special Election of January 30, 2010, for the election of one member of Council Place 3 (District 3) to fill a vacancy until the May 2011 General Election declaring the results; and resolving other matters on the subject.**

**WHEREAS**, for the purpose of electing one member of Council Place 3 (District 3) to fill a vacancy until the May 2011 General Election, the City Council called a Special Election to be held on January 30, 2010, by Ordinance No. 2009-11-19 passed November 23, 2009; and

**WHEREAS**, the City Council met on February 8, 2010, and canvassed the election returns of the above-mentioned election; and

**WHEREAS**, it was found that the persons herein named received the stated number of votes for said term of office on the Plano City Council:

MEMBER OF COUNCIL, PLACE NO. 3 (DISTRICT 3)

André Davidson	<u>1,819</u>
Cathy Fang	<u>1,517</u>
Doug Shockey	<u>823</u>

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS:**

**Section I.** That in the Special Election held on January 30, 2010, for Member of Council, Place No. 3 (District 3), no person received a majority of all votes cast for such place;

**Section II.** The City Council hereby finds and determines, as a result of this Canvass, that a total of \_\_\_\_ persons voted in the Special Election held on January 30, 2010.

**DULY PASSED AND APPROVED THIS THE 8<sup>th</sup> DAY OF February 2010.**

\_\_\_\_\_  
**Phil Dyer, MAYOR**

ATTEST:

\_\_\_\_\_  
Diane Zucco, CITY SECRETARY

Approved as to form:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02-08-10		
Department:		City Secretary		
Department Head		Di Zucco		
Agenda Coordinator (include phone #): <b>Di Zucco x7551</b>				
<b>CAPTION</b>				
An ordinance of the City Council of the City of Plano, Texas, ordering a Runoff Election to be held on March 20, 2010, for the purpose of electing one Member of Council to Place No. 3 (District 3), to hold office until May 2011 to fill a vacancy; designating locations of polling places; and ordering notices of election to be given as prescribed by law in connection with such election and ordaining other matters on the subject.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
<b>FUND(s):</b>				
<b>COMMENTS:</b>				
<b>SUMMARY OF ITEM</b>				
Runoff election resulting from Special Election held on January 30, 2010. Costs will be included in contract with Election Administrator.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	

**An Ordinance of the City Council of the City of Plano, Texas, ordering a Runoff Election to be held on March 20, 2010, for the purpose of electing one Member of Council to Place No. 3 (District 3), to hold office until May 2011 to fill a vacancy; designating locations of polling places; and ordering notices of election to be given as prescribed by law in connection with such election and ordaining other matters on the subject.**

**WHEREAS**, a Special Election to fill a vacancy was held on January 30, 2010, for the purpose of electing one (1) member of Council (Place No. 3 – District 3); and

**WHEREAS**, no one person received a majority of the votes cast at said election for Place No. 3 (District 3), on the City Council; and

**WHEREAS**, André Davidson and Cathy Fang individually received more votes than any other person for Place No. 3 (District 3), and both are, therefore, entitled to have their names placed on a runoff election ballot;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** A Runoff Election is hereby ordered to be held in and throughout the City of Plano on Saturday, March 20, 2010, for the purpose of electing the following member of the City Council of the City of Plano:

Member of Council, Place No. 3 (District 3)

The term of said place shall be until the May 2011 General Election.

**Section II.** The persons entitled to have their names placed upon the ballot at such election are:

Member of Council, Place No. 3 (District 3)

André Davidson

Cathy Fang

**Section III.** The polling places and the county election precincts whose qualified voters shall cast ballots at such locations in the City of Plano Runoff Election are as follows:

<b>COLLIN COUNTY ELECTION PRECINCTS</b>	<b>POLLING PLACE</b>
52, 61, 68, 103 and 141;	Armstrong Middle School 3805 Timberline Drive, Plano, TX 75074

34, 107, 119, 121, 135 and 139;	Bethany Elementary School 2418 Micarta Drive, Plano, TX 75025
23, 46, 47, 50, 51, 152 and 158;	Bowman Middle School 2501 Jupiter Road, Plano, TX 75074
90, 116, 137 and 176;	Brinker Elementary School 3800 John Clark Parkway, Plano, TX 75093
21, 54, 62 and 66;	Carpenter Middle School 1501 Cross Bend Road, Plano, TX 75023
109 and 123;	Christopher A. Parr Library 6200 Windhaven Parkway, Plano, TX 75093
15, 19, 53, 65, 70 and 71;	Haggard Middle School 2401 Westside Drive, Plano, TX 75075
58, 77 and 91;	Hendrick Middle School 7400 Red River Drive, Plano, TX 75025
31, 32, 63 and 76;	Hughston Elementary School 2601 Cross Bend Road, Plano, TX 75023
14, 81, 86, 89, 108, 112, 124 and 167;	Robinson Middle School 6701 Preston Meadow Drive, Plano, TX 75024
64 and 69;	Schimelpfenig Middle School 2400 Maumelle Drive, Plano, TX 75023
28, 75, 105 and 143;	Shepton High School 5505 Plano Parkway, Plano, TX 75093
39 and 85;	Thomas Elementary School 6537 Blue Ridge Trail, Plano, TX 75023
26, 49, 67, 72 and 138.	Wilson Middle School 1001 Custer Road, Plano, TX 75075
<b>DENTON COUNTY ELECTION PRECINCTS</b>	<b>POLLING PLACE</b>
226	Christopher A. Parr Library 6200 Windhaven Parkway, Plano, TX 75093

Polling places on March 20, 2010 shall be open from 7:00 a.m. until 7:00 p.m.

**Section IV.** Votes for said election shall be cast utilizing touch-screen devices with Diebold's ACCUVOTE TS R6v.4.6.4 direct recording devices (DRE's) for early voting and election day and optical-scan ballots with Diebold's ACCUVOTE OS ROM v.2.0.12 for early voting by mail.

**Section V.** Early voting by personal appearance for the above-designated election shall be conducted at the following locations on the following dates and times:

**(Early Voting dates/times to be determined before February 8, 2010 Council Meeting.)**

<b>Main Early Voting Location</b>		
Collin County Elections Department	2010 Redbud Boulevard Suite 102	McKinney, TX 75069
<b>Temporary Branch Early Voting Locations</b>		
Carpenter Park Recreation Center	6701 Coit Road	Plano, TX 75024
Christopher A. Parr Library	6200 Windhaven Parkway	Plano, TX 75093
Collin County Community College - Spring Creek Campus	2800 E. Spring Creek Parkway	Plano, TX 75074
Haggard Library	2501 Coit Road	Plano, TX 75075
Harrington Library	1501 18 <sup>th</sup> Street	Plano, TX 75074
Plano Independent School District Administration Center	2700 West 15 <sup>th</sup> Street	Plano, TX 75075

Applications for ballots by mail shall be mailed to:

Sharon Rowe, Elections Administrator  
Collin County Elections Department  
2010 Redbud Boulevard  
Suite 102  
McKinney, TX 75069

Applications for ballots by mail must be received no later than the close of business on Friday, March 12, 2010.

**Section VI.** The recommendations of the City will be the accepted guidelines of three (3) clerks to be secured to work in each polling place. The presiding election judge of each polling place, however, will use his/her discretion to determine when additional manpower is needed during peak voting hours.

**Section VII.** The City Secretary is hereby authorized and directed to publish and/or post, in the time and manner prescribed by law, all notices required to be so published and/or posted in connection with the conduct of this election.

**Section VIII.** This ordinance shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED THIS THE 8<sup>th</sup> DAY OF February 2010.**

\_\_\_\_\_  
**Phil Dyer, MAYOR**

ATTEST:

\_\_\_\_\_  
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY